DOCUMENT RESUME

ED 132 098 SO 009 636

AUTHOR	Parrish, Michael E.; Hawkins, Helen S.
TITLE	American Issues Forum, Volume I: American Society in the Making. A Study Guide for Courses by Newspaper.
INSTITUTION	California Univ., San Diego. Univ. Extension.
SPONS AGENCY	American Revolution Bicentennial Administration, Washington, D.C.; National Endowment for the Humanities (NFAH), Washington, D.C.
PUB DATE	75
NOTE	87p.; For related documents, see SO 009 634-635
AVAILABLE FROM	Publisher's Inc., 243 12th Street, Drawer P, Del Mar, California 92014 ($2.95)
EDRS PRICE	MF-$0.83 Plus Postage. HC Not Available from EDRS.
DESCRIPTORS	Adult Education; *American Culture; American Government (Course); *American Studies; Annotated Bibliographies; *Colonial History (United States); Course Content; Democracy; Discussion Experience; Fundamental Concepts; Government (Administrative Body); Instructional Materials; Land Settlement; Land Use; *Newspapers; Political Science; Secondary Education; Social Studies; Study Guides; Teaching Techniques; *United States History
IDENTIFIERS	American Issues Forum; *Bicentennial

ABSTRACT

The study guide is designed to be used with other instructional materials in a one-semester curriculum program which is linked to topics outlined in the American Issues Forum calendar. It is intended for use at the local level. In the course, students examine some of the principal conditions affecting the development of American ideas and institutions. The course focuses on the settlement of the North American continent, the changing patterns of the natural landscape, the emergence of a political ideology for a free society, and the formation of a democratic political structure. The issues are discussed in light of their bearing on the United States in 1976. Four units, which correspond to units in the reader and newspaper articles, comprise this study guide. They are A Nation of Nations; The Land of Plenty; Certain Unalienable Rights; and A More Perfect Union: The American Government. Each unit includes key concepts to consider, discussions of the newspaper articles and readings in the reader, study questions for the readings, and an annotated bibliography for each of the units. The guide concludes with a chronological time chart of events in U.S. history. (Author/ND)

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OURSES BY NEWSPAPER

AMERICAN ISSUES FORUM

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AMERICAN ISSUES FORUM:

A STUDY GUIDE FOR COURSES BY NEWSPAPER

VOLUME ONE

Publisher's Inc.

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AMERICAN ISSUES FORUM:

A STUDY GUIDE FOR COURSES BY NEWSPAPER VOLUME ONE

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with
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COURSES BY NEWSPAPER
is a project of
UNIVERSITY EXTENSION
UNIVERSITY OF CALIFORNIA, SAN DIEGO
Funded by
THE NATIONAL ENDOWMENT FOR THE HUMANITIES

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Printed in the United States of America.
Library of Congress Catalog Card Number 75-18571.
Standard Book Number 89163-008-2

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INTRODUCTION

This Study Guide has been prepared to assist both the general reader and students enrolled for credit in the Course by Newspaper entitled, "American Issues Forum I: American Society in the Making." The Study Guide is organized in four units, each corresponding to one of the four major themes discussed in the newspaper "lectures" or articles by our course authors: John Higham, John B. Jackson, Alan Barth, and Doris H. Kearns. Their sixteen newspaper articles, in turn, have been supplemented by the materials in the Courses by Newspaper Reader, also arranged in four units.

The entire course has been designed as part of the American Issues Forum, a national program for the Bicentennial. A course outline appears on p.viii.

It is our hope that the Study Guide will facilitate your understanding of the many historical events, concepts, and problems raised in the newspaper articles and the Reader. Each section of the Guide begins with a list of "key concepts." They should help focus your attention upon the most important themes presented in the articles and readings.

A short essay follows the "key concepts." In this essay, we have tried to highlight and to summarize the relationships between the newspaper articles and the readings; to suggest, for instance, how a particular idea or problem raised in an article has been explored more fully or modified by selections in the Reader.

We have also included in each section a few "study questions" to stimulate further thought about the topics, to help you gauge your understanding of the materials, and to aid credit enrollees in preparing for examinations. Finally, each unit contains a brief bibliography of additional books or articles, suggested by Higham, Jackson, Barth, and Kearns, in the event you wish to investigate their subjects in greater depth.

To aid you in developing a historical perspective and understanding of the chronology of some of the events discussed in the course, we have also included a time chart. [See page 80.]

Although each student will discover for himself or herself how best to use the course materials, we would suggest the following approach:

1. Read the newspaper article each week; clip it and carefully save it for future study and review.
2. Glance over the Key Concepts and the essay in the corresponding unit of the Study Guide. These will call attention to some of the more important points in the lectures and readings, and will help you to read more critically and with a better understanding.
3. Read the appropriate selections in the Reader.
4. Reread the Key Concepts and the essay, more thoroughly this time, considering the issues raised. (You may wish to reread the articles as well.)
5. Proceed to the Study Questions. Suggested guidelines to answers are provided with each question, although there is, of course, no single "correct answer."
6. Turn to the annotated bibliographies for suggestions of further reading on topics of interest.

Throughout the Study Guide we have sought to avoid definitive conclusions and dogmatic interpretations. In fact, we have endeavored to stimulate more questions than we have answered. The measure of good teaching after all, whether by newspaper or otherwise, is the extent to which each student continues to think independently once the teaching per se has been concluded.

The text of the Study Guide was written by Michael E. Parrish, assisted by Helen S. Hawkins.

We gratefully acknowledge the support of the National Endowment for the Humanities, which provided the funding for this project. The views presented in this Study Guide are those of the authors only, however, and do not necessarily reflect the views of the Endowment or of the University of California.

Course Outline For
The Third Course by Newspaper

American Issues Forum I:
American Society in the Making

American Society in the Making examines some of the principal conditions affecting the development of American ideas and institutions. It focuses on the peopling of the North American continent, the changing configuration of the national landscape, the emergence of a political ideology for a free society, and the formation of a democratic political structure. All of these are discussed with particular attention to their bearing on the United States in 1976.

INTRODUCTION

Daniel Aaron, Professor of English and American Literature, Harvard University.

1. From Centennial to Bicentennial

Unit I. *"A NATION OF NATIONS"*

John Higham, Professor of History, The Johns Hopkins University.

2. Becoming Americans: The Crux of Unity
3. The Great Migrations
4. Out of Many, One: Patterns of Assimilation
5. Who is an American? Reconciling Diversity

Unit II. *THE LAND OF PLENTY*

John B. Jackson, Adjunct Professor, University of California, Berkeley, and Lecturer, Harvard University.

6. The Landscape of Status
7. The Landscape of Privacy
8. The Landscape of Work
9. The Landscape of Ecology

Unit III. *"CERTAIN UNALIENABLE RIGHTS"*

Alan Barth, former editorial writer for the *Washington Post*.

10. Advocacy: Free Speech, Free Assembly
11. Scrutiny: Freedom of the Press
12. Privacy: Freedom from Search and Seizure
13. Equality: Equal Protection Under the Law

Unit IV. *"A MORE PERFECT UNION": THE AMERICAN GOVERNMENT*

Doris H. Kearns, Associate Professor of Government, Harvard University.

14. "In Congress Assembled . . .": Congress and the Popular Will
15. The Evolution of Presidential Power
16. American Political Parties: Dead or Alive?
17. Reforming the Government: Now and the Future

CONCLUSION

Michael E. Parrish, Associate Professor of History, University of California, San Diego.

18. American Society: The Future of the Past

Welcome to All By J. Keppler, 1880

UNIT ONE:
"A NATION OF NATIONS"

KEY CONCEPTS

American ideology. The historian Eric Foner has defined an ideology as "the system of beliefs, values, fears, prejudices, reflexes, and commitments — in sum, the social consciousness — of a social group," and that is the sense in which we shall use it here. (Foner, *Free Soil, Free Labor, Free Men*, Oxford University Press, 1970, p. 4.) The American ideology includes a consensus of ideas about government, economic activity, social relationships, and religious life that together constitute *ideals* of condition and action — standards of perfection in the way we see ourselves as a nation and the goals we set for ourselves. Higham argues that in America a shared political ideology gave a sense of unity and identity to a diverse and widely dispersed population. He stresses the effect of political *idealism* in our national life. Higham considers how reality in America has fallen short of professed ideals and how those ideals require examination. He also points out that our reliance on ideology as a unifying factor can involve dangerous illusions, especially when it leads to a demand for *orthodoxy* (requiring everyone to believe in one set of ideas and ideals). It may also encourage a *sense of destiny* (a belief that the ideology guarantees success) and create an unrealistic *sense of universal mission* (we see our ideals as not only preferable for us, but suitable for everyone).

Localism. The concept that political power is best exercised at the local level is called localism. It has been a major element in our political ideology. Since the colonial period, when most local communities in practice controlled a large part of their own affairs, Americans have believed that citizens' liberties and interests are better safeguarded by a dispersion or fragmentation of political power in *decentralized*, locally controlled and operated government than by a concentration of power in a strong, *centralized* government. Localism remained dominant in American thought, and local control remained the rule until problems rising from industrialization and urbanization weakened the locality's ability to perform many vital functions. Since the 1930s, both state and national government have expanded dramatically, but power became particularly concentrated at the national level. The question of how to reconcile state, regional, and national aims with the ideal of local control remains a central dilemma in American politics.

Migration and mobility. The term mobility is used to describe movement from place to place or movement within the social scale. *Geographic mobility* denotes migration, moving from one place to another. *Social mobility* refers to the improvement, or worsening, of an individual's position in society. In American society, social position is closely tied to economic position, and both are often related to geographic mobility. Americans consider upward social mobility a primary goal; migration is an accepted and encouraged means to that end.

An important distinction that should be made is that between *voluntary* and *involuntary migration*. Most of those who moved to this country or within it did so voluntarily. However, many had no choice. Slaves, convicts, and debtors who were transported against their will, and Indians who were forced off their lands or onto reservations, are only the most familiar examples of such involuntary migration in America.

Immigrants who came to this country voluntarily were influenced by what sociologists call "push factors" and "pull factors"—the conditions at home that prompt individuals to move, and the conditions in the new location that attract them. Important among the "pull factors" for immigrants coming to America was the promise of economic opportunity, political participation, religious freedom, and upward social mobility. As many of the readings for this section show, America remained attractive to newcomers even though both social and physical conditions often proved contrary to the immigrants' expectations.

Indentured servants and **redemptioners** are terms used to describe those immigrants who paid off their passage to the United States in the eighteenth and early nineteenth centuries by binding themselves to the service of another. Lacking funds to cover the cost of transportation and necessities on board ship, many immigrants entered into personal service contracts, or *indentures,* to a ship's captain for a specified number of years. The captain, in turn, would sell the indentures to American employers once the ship reached its destination. *Redemptioners* bound themselves to work off their passages, but the terms were not specified in advance, and their services were sold to the highest bidders. Frequently, the immigrants had little to say about where they worked or whom they worked for, because the ships' captains negotiated the agreements.

Old immigrants. This term has been used by American social historians to categorize those people, generally Northern and Western Europeans, who entered the United States during the first half of the nineteenth century. English, Irish, German, and Scandinavian immigrants predominated in this group. **New immigrants** refers to those people who came to America later, principally from the end of the nineteenth century until the 1920s. Many of these immigrants came from southern or eastern Europe and from Asia.

Assimilation. In a social context, assimilation means the absorption of newcomers, or persons considered "different," into a community so that they take on the essential characteristics of earlier residents, becoming like them in values, aspirations, and conduct. In America assimilation remained a limited ideal rather than a full reality. Race and religion remained firm barriers to full acceptance by the dominant "white Anglo-Saxon Protestant" group. Little intermarriage across those barriers took place. "Americanization" therefore involved the adoption of accepted

political and cultural *ideals*, a process that could be accomplished through education. Nonwhites and non-Protestants could thus become "American" in outlook without being fully assimilated socially. Racial minorities had no real choice. Cultural minorities who would not renounce their religion or ethnic traditions remained outside the American mainstream. By force of numbers, however, those who refused to abandon their cultural traditions eventually forced a redefinition of "American," which now allows religious and cultural diversity within a basic framework of common political and economic ideals. "Cultural pluralism" is now replacing the ideal of assimilation to one narrow pattern.

Acculturation is the process of adopting the cultural traits or social patterns of another group. In American society, heavily populated by white Protestants from the earliest period of European migration, acculturation has normally denoted the process by which immigrants from different backgrounds adopted the cultural traits and social mores of the dominant group. It is also used to refer to the modification of a simple culture by contact with a more complex culture. An example of such acculturation is the adoption by native Americans of some of the white society's culture.

Pluralism in America has both a political and a cultural connotation. Politically, it has meant the dispersion of decision-making authority among many governmental and nongovernmental bodies. In this respect, pluralism has been the antithesis of centralization, and it has stressed the importance of competition and shifting coalitions among the various political and social units in the society. Culturally, it has denoted both the existence of America's many ethnic and religious communities as well as the desirability of maintaining cultural differences in the face of demands for acculturation to one social pattern or norm.

Racism is a system of attitudes by which people are judged inferior or superior to others on the basis of racial origin. Primarily, Americans now use the term *race* to distinguish among a few major groups that share certain hereditary physical characteristics, particularly skin color. In the past, however, the term was used to classify people according to their national or cultural origin as well (for example, the "Irish race," the "Anglo-Saxon race," or the "Jewish race"). Today, the term *ethnicity* is used to describe national or cultural origin. *Ethnic* has come to have a specific meaning, however, when applied to certain groups that retain a particular cultural identity in customs and life-style—primarily Americans of southern and eastern European background. Racism, or racial prejudice, has been a constant factor in American history, significantly affecting the options and opportunities open to individuals of different racial *or* ethnic origin.

Ethnocentrism is the belief in the superiority of one's own ethnic group or cultural tradition, frequently accompanied by rejection of other groups

and traditions. When practiced by some groups in American society, for example the Ku Klux Klan, ethnocentrism led to lawless attacks against various religious and racial minorities, particularly Jews, Catholics, and blacks. On the other hand, many forms of ethnocentrism in America, emphasizing pride in one's religious or national heritage or fidelity to one's ethnic group, have not degenerated into violence against other groups. In this respect, ethnocentrism has been an important source of American pluralism.

Exclusionism. Another continuing theme in American history, the belief that immigration ought to be limited to certain preferred groups or halted entirely, is called exclusionism or *anti-immigrationism*. Before the Civil War, exclusionism focused on Irish-Catholics and Germans. This movement was called "nativism," a term still applied to anti-immigrationism. In the 1880s, Orientals bore the brunt of exclusionist efforts, becoming the first racial group to be specifically barred by Federal law; also included were paupers and the insane. When the "new immigration" of people from southern and eastern Europe reached enormous numbers in the first decades of this century, exclusionists centered their efforts on those groups, finally barring all but a small number through the Quota Acts of the 1920s. The quotas favored Northern Europeans, the group that had predominated as American immigrants in the nineteenth century. Exclusionist arguments often termed unwanted people "unassimilable"—incapable of absorption into American life.

The allotment plan, adopted by the United States government in the Dawes Act of 1887, became basic national policy with respect to the American Indians until the 1930s. The allotment plan disbanded tribal organizations and divided reservation lands into small farms, which were then allocated to each adult Indian. Although many supporters of the plan believed it would help the Indians and hasten their acculturation to the social and economic patterns of white society, the long term consequences proved disastrous for both the tribes and individual Indians. From the late 1940s until the 1960s, the United States government pursued a *termination policy* with respect to the tribes. The policy sought to curtail Federal responsibility for the Indians, reduce services to them, and transfer their care to the separate states.

ARTICLES AND READINGS

Michael E. Parrish

Professor John Higham begins our course, "American Issues Forum I: American Society in the Making," by reminding us of the important fact that this nation is more than a place, a set of institutions, or a collection of ideals. America has been, fundamentally, people.

People "made" American society—Powhatans and Yankees; Irishmen and Germans; Russian Jews from Polotzk and Sicilians from Palermo. Individually and collectively, united and in conflict, they fashioned its landscape, technology, social values, and political culture in an effort to fulfill particular human desires at certain historical moments. Unless we understand the people of America and the desires that impelled them, we shall not fully comprehend the "making" of our society.

In his first article, Higham examines the basis of American unity. What, he asks, has nourished solidarity among a people of such diverse ethnic, religious and cultural backgrounds? What has been the "cement" that holds Americans together? And what does it mean, finally, to be American?

The answers to these questions, Higham suggests, can be found in what he calls America's "civil religion," a body of secular rules and beliefs designed, paradoxically, to promote unity through the protection of diversity and individual fulfillment. A unified America, in short, was an America that, by and large, permitted individuals and groups within it to pursue their own particular desires or visions of the good life, thus avoiding strife over the question of ultimate, collective social ends. Unlike other nations that defined themselves in terms of a unifying set of social characteristics—racial, religious, cultural—America defined itself as the incarnation of a unifying social idea: maximum self-determination for individuals and for voluntary associations of individuals.

Among early colonists, Higham points out, there was an intense preoccupation with defending the parochial customs, traditions, and interests of their local communities against "outside" domination, whether exercised by the British before 1775 or by the new federal government after 1787. These fears of distant authority, centralization, and amalgamation found clear expression in the Constitution and the Bill of Rights, with their emphasis upon federalism, separation of powers, and individual rights.

Throughout a great deal of our history, moreover, these essentially pluralist ideals received powerful reinforcement from the material circumstances of America within which they functioned: cheap land, plentiful resources, diffuse patterns of settlement, and many opportunities for economic development. Individual fulfillment became a basic tenet of the American ideology, the foundation of our concept of liberty as well as the basis of social order.

Several of the Reader selections vividly illustrate the pervasiveness of these ideals among various immigrant communities that came to America. Above all, America's "civil religion" promised salvation through opportunity, usually in the material sense of a higher standard of living for particular immigrant groups or the anticipation of advancement for their children. Compare and contrast the expression of these ideals in the selections by Stephenson, Riis, and Antin:

"I know of many who own farms who didn't even have gruel in Sweden," Mary Stephenson wrote from nineteenth-century Iowa. "I am reminded of Jonas Peter whose possessions on his arrival [in America] consisted only of his clothing. Now . . . he could buy a good estate in Sweden." "The German ragpicker of thirty years ago," Jacob Riis noted at the beginning of the twentieth century, ". . . is the thrifty tradesman or prosperous farmer of today. . . . The Irish hod carrier . . . has become a bricklayer, if not the Alderman of his ward." And for Mary Antin's father in Boston's West End, the public schools meant opportunity, for "he knew no surer way to their advancement and happiness."

Ideals vs. Reality

Professor Higham's next two articles, however, explore the many contradictions inherent in America's "civil religion" as it has been practiced throughout our history. Ideals and reality have often been in sharp contrast. As Higham notes in his Reader selection on Emma Lazarus' poem "The New Colossus," the Statue of Liberty arose in New York harbor at the same time intense fears mounted over rising immigration to America. "Old immigrants" did not always welcome "new immigrants" with open arms, especially during periods of economic dislocation and social unrest. How much self-determination, liberty, and opportunity did America accord to particular individuals and to particular ethnic communities? How can we explain the variations and differences in their treatment?

The American Indians are a case in point, discussed in the Reader by Higham and by D'Arcy McNickle, Gary Nash, and Alvin Josephy, Jr. The Indians encountered by the Europeans in North America, McNickle and Nash point out, lived in small, self-contained communities, much like those the white settlers themselves subsequently created and praised because of their solidarity, intimacy, and independence from external authority.

From the colonial period through the nineteenth century, however, white immigrants achieved a perverse kind of unity by assaulting these "typically American" Indian communities, killing their members, seizing their lands, and diminishing the inhabitants' opportunities for self-determination by imposing a reservation policy that dated back to 1646. Josephy extends Nash's discussion by following the terrible consequences of this departure from American ideals throughout most of the twentieth

century. He also reports on the recent efforts by the Indian survivors to restore the ideal by means of self-determination.

Other nonwhite immigrants, principally Africans, Mexicans, and Orientals, also encountered in America a diminished respect for their particular communities and for their dignity as individuals. Professor Higham reminds us of slavery and segregation in the case of Afro-Americans and of the injustice done to the 110,000 Japanese (70,000 of whom were American-born citizens) forced to live in World War II relocation camps without inquiry into their individual loyalty or patriotism.

Regardless of race, the journey to America was often harsh and disorienting for the immigrant. Notice the similarities as well as the differences in the ordeal of migration as described in the Reader by Bradford, Phillips, Mittelberger, Calum, and Antin. Although the length of the journey may have been shortened by the advent of the steamship during the nineteenth century, it is difficult to distinguish large variations in the food and accommodations given to the voyagers. Those who died received the same unceremonious burial; the deliberate separation of families was a hardship endured by many whites as well as black slaves. But consider, too, the point at which the similarities ended. Although many white European immigrants suffered extreme prejudice and discrimination at the hands of "older" arrivals because of religious or cultural differences, only Afro-Americans experienced a complete denial of their individuality and humanity through slavery.

Assimilation vs. Pluralism

A second or third generation Italian-American, discussed in the Reader by Jerry Mangione, often faced a cruel choice between adhering to the ethnic rituals, customs, and behavior of parents and grandparents or abandoning them in favor of assimilation and Americanization. For many immigrant groups, the pressures to conform and to foresake their unique cultural traditions became at times overwhelming—undermining, in fact, the essence of self-determination. Almost from the beginning of their contacts with Indians in the colonial period, for example, Europeans and Americans attempted either to exterminate the Indians or to convert them to patterns of behavior of the white society. The Dawes Act of the 1880s not only destroyed traditional patterns of tribal political organization, but attempted to transform the Indians into individualistic farmers. Later, twentieth-century efforts to encourage Indian settlement in urban areas also displayed a callous disregard for their tribal heritage. Remarkably, as both Nash and Josephy point out, the Indians retained a great many of their unique cultural traditions in the face of white efforts to eradicate them.

Until the 1960s, most Afro-Americans were not given a choice between assimilation and ethnic separatism because of official, state-sanctioned

racial segregation. The impact of slavery and then segregation was paradoxical. Without doubt, they impaired the individuality of many Afro-Americans. At the same time, a rich, distinctive black culture took root in America, called attention to the uniqueness of the collective Afro-American experience, and provided a framework through which black Americans could later interpret their past and reclaim their individual rights and ethnic pride. Nathan Huggins analyzes this newest dimension of the black experience in his selection, "Afro-Americans: National Character and Community."

The intense self-awareness generated among Afro-Americans during the 1950s and 1960s, as they attempted to overcome the effects of generations of segregation and discrimination, also permeated other immigrant groups: the Mexican-Americans, discussed by Ruben Salazar; and many white ethnics who, as Barbara Mikulski notes, also attempted to rediscover the uniqueness of their own culture in America.

Assimilation or pluralism? Individualism or ethnic solidarity? Which has been more characteristic of America in the past? Which shall prevail in the future? In his concluding article, Professor Higham examines the alternatives.

In all modern societies, he suggests, the forces of standardization, regimentation, and conformity have become very formidable in their capacity to reduce all citizens to one common mode of learning, thinking, working, and enjoying life. Ethnic pluralism, which defends particular rituals, customs, and territories, may not be wholly undesirable in such a world, even though such pluralism can at times degenerate into irrational fear and hatred directed against those outside certain ethnic boundaries. On the other hand, as Higham concludes, how much pluralism and social division can America tolerate and still remain united around the "civil religion" of liberty, opportunity, and self-determination?

The pluralist viewpoint, finally, offers no overall conception of the "good." One of its principal spokesmen, Horace M. Kallen, whose article "Democracy Versus the Melting Pot" appears in the Reader, could not solve this dilemma. Kallen likened America to a symphony orchestra, composed of many different instruments. Each nationality or ethnic group, he proposed, might "attain the . . . perfection that is proper to its kind." Kallen wrote at the turn of the twentieth century, when the belief in America as a land of unlimited resources and opportunity remained strong and when the "perfection" attained by one group did not immediately suggest deprivation for other groups. Can the pluralist vision retain its vitality in America today, faced as we are with shrinking resources, diminished abundance, and contracting opportunities? What may become of the "civil religion" under such circumstances?

Of necessity, the pluralist must treat most ethnic interests and aspirations as inherently worthy and legitimate. But this provides no method for deciding which interests should prevail in case of conflict and in what order of priority. Kallen himself did not resolve the question of whose

music the symphony would play or who would select the score—matters of critical importance because they involve the issue of ultimate social ends. Unless some solution is found to this problem, the American past does not give total assurance that a peaceful solution can or will be found.

STUDY QUESTIONS

1. Higham singles out the Declaration of Independence, the Statue of Liberty, the Supreme Court, and the office of the President as revered symbols of America's ideological "sense of universal mission." Describe what those symbols stand for, and suggest others that also represent elements in America's civil religion, discussed in this section.

SUGGESTED GUIDELINES

First, note Higham's argument that Americans saw themselves as missionaries of a "civil religion" based on a superior political system worthy of universal adoption. Consider how these symbols reflect that system's special character: governmental power derived from the people, limited and divided among different levels and branches of government to assure both order and liberty. How do other elements of our ideology — religious toleration, the capitalist "free enterprise" system, our belief in the benefits of migration and public education—relate to that political system? Do these symbols represent those ideas as well? Would you choose others to represent our political ideals?

To complete the question you should evaluate how our ideology has worked out in practice. Have all Americans enjoyed the liberties promised by our political system? Given Higham's warnings regarding ideology as a unifying factor, does a demand for conformity hinder reexamination and stifle dissent? Do we try to impose our ideals on other peoples? Has our ideology changed in recent years in theory or in practice? Depending on your answers to these questions, consider other possible symbols such as the Liberty Bell, a Ku Klux Klan burning cross, a desegregated school, Watergate, a dollar sign, the volunteer, the bureaucrat, a Vietnam refugee.

2. Compare and contrast the experience of different races in the "peopling" of the North American continent. What factors seem to you most important in determining how each group fared in that process?

SUGGESTED GUIDELINES

Consider the gains and losses of each major racial group in terms of numbers, cultural survivals, physical well-being, feelings of self-worth, and options for self-determination.

Note that Europeans established a foothold in North America despite

the native Americans' initial superiority in numbers. What technological, social, and psychological advantages did the Europeans have? How did the native population contribute to the Europeans' early success? Why were the native peoples unable to resist the European invasion? Note too why the outcome differed for the Indians in the Spanish colonies.

Now consider the Africans' experience in America. What accounts for their population increase in contrast to the Indians' decline? If Europeans desired to acquire Indian land and utilize Africans' labor, what cultural price did they pay to achieve those ends? How did attitudes toward the assimilation of Africans and Indians differ? How did slavery shape European immigrants' objectives, and how did their immigration affect black Americans? Why were the decades around the turn of this century the worst period for blacks and Indians? How and why have prospects for both of these groups improved since?

How did the experiences of Orientals in America differ from those of other non-European races? How well have groups of Latin-Americans shared in this country's "promise"? Did later waves of Europeans fare less well than earlier arrivals? If so, why?

3. Using the articles and readings for this section, compare the immigrants' expectations to the reality they experienced in America.

SUGGESTED GUIDELINES

Your task here is to consider how realistic the immigrants' perceptions of America were. Note that all immigrants had preconceived hopes and fears. Most immigrants, whether voluntary or not, shared an uprooting, a dangerous voyage, and a difficult adjustment to a new life, but these experiences varied according to their background, resources, and reception.

Consider first involuntary African immigrants. What do Higham, the Phillips narrative, and Nash's article tell you about the fears and experiences of captive Africans?

Were the European immigrants fully prepared for the conditions they met on board ship and for life in the "wilderness"? How did religious commitments affect the Pilgrims' adjustment? Would accounts such as Mittelberger's warn potential "redemptioners" of the hazards they faced? What does the willingness of redemptioners to bind themselves as servants tell you about the attraction of America?

Consult Higham's third article and the readings, beginning with Stephenson, in considering these questions regarding the later period: How did anti-foreign sentiment and differences in language, religion, and race affect the immigrants' experience? Some immigrants received misleading information about America. Did Stephenson's letter home offer realistic advice? How did the public schools help or hinder immigrants to realize their expectations? Does Colum's description of a woman's departure from Ireland indicate that she anticipated the costs of separation

from home? If immigrants to industrial, urban America did not always improve their condition, what evidence suggests that hopes for their children proved sound?

4. Discuss the ideas expressed by Lazarus, Zangwill, and Kallen. How do their conceptions of America differ? How realistic were they in light of our exclusionist history? Finally, how can we utilize these ideas and those expressed in readings by Mikulski, Josephy, Salazar, and Huggins to reconsider the concepts of assimilation and pluralism suggested by Higham?

SUGGESTED GUIDELINES

First note the conditions in industrial America that contributed to exclusionist sentiment in the period of the "new immigration." Then analyze the concepts expressed in these writings in terms of those conditions and attitudes. Ask what motivated Lazarus and why she saw the Statue of Liberty as "Mother of Exiles." Then consider Higham's essay regarding the history of the statue and the transformation in its meaning for different Americans over time. Was America a welcoming sanctuary in the 1880s? Had conditions changed by 1909 when Zangwill celebrated the Melting Pot idea? How true to life was that concept then? Is it valid today? Why did Kallen offer cultural pluralism as a goal preferable to assimilation? Is his concept of a federation of cultures more consistent with our political ideal? Was his vision of a "symphony of civilization" too idealistic? Why did cultural pluralism later become widely accepted?

Now consider the negative effects of both assimilation and pluralism discussed by Higham. How do the readings illustrate those effects? Do they support Higham's outlook regarding our prospects for achieving a balance between the two strategies? What approach does Mikulski recommend to "ethnic Americans"? Is the United States now on the "right course" in regard to the assimilation of native Americans? What objectives for the Chicanos does Salazar express? Why does Huggins maintain that neither the melting pot nor the pluralist model offers a practical alternative for black Americans? Do you agree with his suggestion that our shared migration experience could provide a common focus for a new sense of national community?

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UNIT TWO:
THE LAND OF PLENTY

KEY CONCEPTS

Environment. Human life takes place within a complex of interacting *environments* or *surroundings*. The *natural environment* includes the physical features of the land, climate, soil, and vegetation. When people shape the natural environment to their own needs they create a *cultural environment* that reflects their past experience, their objectives, and the skills, tools, and material they command.

Landscape. John B. Jackson refers to landscape as the space where people interact with each other and with the natural environment. He discusses several phases in the changing landscape of America: the *landscape of status*, characteristic of the colonial period; the *landscape of privacy*, where, during the nineteenth century, physical separation, individualism, and mobility determined the shape of communities; the *landscape of work* (the urban-industrial landscape) in which the ideal of engineering efficiency transformed the relationship of people to the land; and the *landscape of ecology* (of technology and welfare) in which the present landscape may be redesigned to fit man more carefully to the natural environment.

Land use. A major determinant in the character of a "landscape" is the use to which people put the land they control. Government always had some effect on land use in America, particularly through taxation and land disposal policies. Until recently, however, private owners of land were essentially free to determine its use according to their own individual interests. Today, government plays an increasing role in land use determination through local zoning ordinances and state and Federal legislation. Government regulation of the *manner* in which land is used—building codes, pollution controls, and other measures—further limits private choice in the interest of the public as a whole.

Ecology. Originally meaning simply the study of a living organism in relation to its environment, the word ecology is now used principally to describe a harmonious relationship among living creatures and the environment they share. Ecology is now often associated with conservation of natural resources, preservation of wilderness areas, and other social objectives in what Raymond Dasmann calls the development of "ecological conscience."

Community. We think of *a community* as a place where people live together, but we speak of community or a *sense of community* when people are aware of sharing common interests and objectives to such a degree that they work together for the common good of all rather than putting individual and personal interests first. Some observers suggest that Americans must develop a new sense of community if we are to reconcile the ideal of individual freedom to modern social needs and goals.

Grid system refers to the method of land survey and allocation adopted by the Continental Congress in the 1780s for opening the Northwest Territory to settlement. The law called for dividing the entire Territory into square-mile units (called sections), with survey lines running due north and south, and east and west. Every thirty-six sections constituted a township; in each township section sixteen was set aside to support a local school. As Jackson notes, no land was designated for towns or administrative centers, no roads were laid out, and no common lands were provided for the community as a whole. The grid system was the basic pattern of survey that was used throughout most of the nineteenth century.

Urbanization. The process by which cities are established and develop over time. The United States has seen a continued growth in the number and size of cities and in the proportion of its population living in urban areas. In contrast to *rural* life, where people live in open country and engage primarily in agriculture and other "extractive" industries, *urban* life involves high population densities, close living conditions, and is centered on manufacturing, commercial, government, and cultural activities. *Suburbs*, communities adjacent to the cities to which they are economically and culturally tied, form an important part of the modern urban landscape. Clusters of "metropolitan" areas that extend for great distances, such as the eastern seaboard cluster described by Jean Gottmann, are the most recent developments in the American urbanization process.

Standard Metropolitan Statistical Area is a term coined by the Federal Census Bureau in 1950 to take account, as Daniel Boorstin writes, "of the new vagueness of city boundaries." Prior to 1950, the Census Bureau defined an "urban" person as one living in an incorporated place having 2,500 or more inhabitants. In 1950, Standard Metropolitan Statistical Area (SMSA) became the Bureau's new definition of "urban"; this included not only persons living in incorporated units of 2,500 or more, but also those who lived in unincorporated units of that size, plus all persons living in "the densely settled urban fringe . . . areas around cities of 50,000 inhabitants or more."

Megalopolis, meaning simply "a very large city," has been used by demographers and urban geographers to describe the dense cluster of metropolitan areas stretching from Boston to Washington, D. C., on the northeastern seaboard of the United States. The same term might well be applied to other areas, such as the heavily populated region from San Francisco to San Diego in California.

ARTICLES AND READINGS

Michael E. Parrish

"The landscape," Professor John B. Jackson writes in his opening article, "is history made visible." Just as one may search for the meaning of America through a study of its various ethnic communities and their relationships with one another, so, too, may one seek to understand the historical development by examining the ways Americans have interacted with their natural environment. Professor Jackson suggests how this may be done.

The American landscapes of which Jackson writes are essentially cultural—they "have well-defined boundaries, a network of roads and paths, places where natural resources can be put to use, places for privacy, and places for social co-mingling."

In the course of his articles, Jackson suggests that America has produced four distinctive landscapes, each succeeding the other in historical time; each, in turn, expressing a unique stage of America's economic, social, and political development over nearly 400 years: (1) the colonial landscape of status; (2) the nineteenth-century landscape of individualism and privacy; (3) the landscape of work—of industrialization or specialization; and (4) the landscape of ecology—of welfare and technology.

The most interesting questions raised by Jackson concern the transition from one landscape to the next, and the differences as well as the similarities among the various landscapes in terms of human relationships and their impact upon the natural environment. What were the principal catalysts of change? Can one make normative as well as historical judgments about the various cultural landscapes in America? Was one landscape superior to another because of the type of human relationships existing within it and the attitudes exhibited toward nature?

Jackson discusses three colonial landscapes of status: the Southwest, New England, and the South. In our Reader, the selections by Wertenbaker, Johnson, Nairne, and Forbes recreate the life in those three regions. They were very different communities and yet, in crucial respects, much alike.

The Landscape of Status

To some degree, the colonial landscapes of status were extensions of Spain and England. They reflected many of the social, economic, and political assumptions of those older European societies, above all the belief in a "natural" social order constituted of fixed social classes. Every individual, whether king or peasant, baron or artisan, had an assigned position or role in the social order that provided its members with rights and duties appropriate to their "natural" social stations. In both the New World and the Old, these were societies built upon a structure of unique class privileges, not social equality; yet, at the same time, they were organic

societies in which individuals knew their places and felt reasonably secure in their identities as members of a particular unit.

In the seventeenth and eighteenth centuries, low levels of technology plus a limited division of labor sustained this social order throughout much of the western world, until it was swept away by the rise of commercial capitalism and the democratic political revolutions in England, America, and France.

The New World colonial settlements, as both Jackson's article and the readings make clear, found themselves torn between a desire to perpetuate the older social forms and the North American environment that worked against them. Their cultural landscapes reflected this tension. While a belief in social hierarchy served as an initial basis for land distribution and communal organization, the abundance of land conferred a rough equality of ownership, or at least the expectation of ownership in the future.

Both the New England towns and the Spanish mission settlements in the West were by and large efforts to maintain the familiar cultural landscapes of Europe. Although the settlers were granted individual land holdings, the principal unit of human identity and well-being remained the collective group of the town or mission. In certain respects, therefore, the southern colonial landscape of isolated, self-contained plantations, devoted to single-crop agriculture, was more typically and uniquely "American" than the landscapes of New England and the Southwest, especially when viewed from the perspective of the nineteenth and twentieth centuries.

We tend at times to romanticize these first American cultural landscapes. From our own vantage point of huge, impersonal, urban institutions, severed as most of us are from the land, the early landscapes seem to be appropriately small, cohesive, and manageable units of personal existence. Yet they did not always nurture ideal human relationships (consider slavery and the condition of the Spanish mission Indians), tolerate nonconformists, or display a very respectful attitude toward nature. More than anything else, primitive technology restrained the human appetite to transform the environment and bend it to the human will. Even so, one individual with a broad ax, as the novelist James Fenimore Cooper recorded, could inflict enormous damage upon a virgin forest.

The Landscape of Privacy

Colonial landscapes of status in America swiftly gave way to the landscape of individualism, social equality, and privacy—the characteristic landscape of much of the nineteenth century. The abolition of slavery and the Homestead Act expressed the same fundamental hostility to social hierarchy and privilege. In politics as well as in cultural landscape, the "common man" reigned supreme, symbolized by Andrew Jackson and Abraham Lincoln as well as by the monotonous grid system of western land disposal and settlement.

This landscape, Jackson writes, despite many variations, still characterizes vast portions of our nation, even after the underlying social structure and purposes that sustained it have passed away. Stretching from Ohio to the Rocky Mountains, it seems to express the American character and our core values: self-reliance, opportunity, growth. Economically and socially, these were the golden years of American agriculture. Always market oriented, increasingly dependent upon complex networks of transportation and distribution, the separate family farm, described by Carl Sauer, still functioned as a self-contained community where adults and children shared a common set of life experiences and mutual purposes.

Beyond the family unit, however, the feeling of community became sharply attenuated. The landscape of privacy, of self-reliance, and of the family farm was also the landscape of isolation and of loneliness recalled by Willa Cather. Its lineal descendant has become the modern, middle-class suburb, perhaps the final testament to the reign of the "common man" in America.

The nineteenth-century landscape of individualism and privacy was also a landscape shaped by extreme geographic mobility and frenzied exploitation of the environment. In both respects, it undermined the sense of community by reducing individuals, land, and resources to a common calculus of quick economic profitability. The transient mining camps, described by Mark Twain, experienced the solidarity of individual greed, but little more. Land, too, as Horace Greeley complained, became "a mere merchandise like molasses and mackerel." The individualistic, profit-maximizing values characteristic of this cultural landscape remain today, according to Raymond Dasmann, the single greatest obstacle to more rational and respectful use of the natural environment.

The Landscape of Work

Even before western frontier expansion ran its course, the impact of machine technology, factory production, and urbanization had begun to transform the cultural landscape of individualism and privacy. Within the new urban, industrial landscape, Jackson suggests, Americans became not only separated from the land as never before, but they also experienced for the first time a sharp dichotomy between where they worked and where they and their families lived. At the same time, a society of widely dispersed communities and individuals became one of highly specialized and interlocking functions.

Farming itself underwent significant changes in response to urban growth and machine technology. As the demand for food and fiber expanded, so, too, did the scale and techniques of agricultural production. Harnessed to urban, industrial needs, farm life became in many ways indistinguishable from its urban counterpart—the specialized factory or mass-production assembly line. Dakota wheat farms, described by C. C. Coffin, or later, the type of agriculture practiced in the central California

of John Steinbeck, bore little relationship to homesteading on the Middle Border: "They farmed on paper," Steinbeck wrote, "and they forgot the land, the smell, the feel of it .... Many of them had never seen the farms they owned."

The largely self-sufficient farm, described by Sauer, had become something of an anachronism in American life even before the Great Depression. The new agricultural "factories," specializing in one or two basic crops, were models of efficiency, rational planning, and scientific management. By comparison, the cities in the urban-industrial landscape seemed to become more chaotic and disorganized as places of work and living. As Daniel Boorstin notes, the so-called "walking city" of the turn of the century gave way to the "new spatial vagueness" of the city and its suburbs. The "walking city," with its simple zoning practices and defined neighborhoods corresponding to social class, lost all coherence in the wake of mass transportation, endless real estate promotions, and, finally, the automobile. Lewis Mumford assesses the fateful impact of this mode of transportation upon life in our major cities.

Both the urban-industrial landscape and the more recent landscape of ecology and technology exhibited America's devotion to urban and rural efficiency in the areas of land use, economic planning, and resource development for the general welfare. Scientific know-how (exemplified in John Wesley Powell's *Report on the Lands of the Arid Region of the United States*), long-range planning, and, finally, a concern for conservation replaced the crude, individualistic exploitation characteristic of land use and resource development in the nineteenth century.

The Landscape of Ecology

The writings of George Perkins Marsh and David Lilienthal express these concerns for wise resource management in the interests of "the public" and generations yet unborn. The early history of the Tennessee Valley Authority, discussed by Lilienthal, best exemplified the quest for scientific utilization of the environment on behalf of the general welfare, not personal profit. As Lilienthal and others conceived of the government-owned project, it would manage the water and land resources of the region on a scientific basis with a maximum of popular, grass-roots control by people living in the Tennessee Valley. Today, however, critics of the TVA condemn its bureaucratic red-tape and dictatorial methods; detractors complain that its coal-fired electric plants foul the air and soil and that its projected nuclear power plants are a menace to public safety. Finally, the TVA's ventures into tourism and recreation projects have brought complaints that it is more concerned with profits than with preserving the natural environment of the area.

"At last," Jackson concludes, "we have the technical means to play a new and unaccustomed role as custodian and guardian of the earth." Certainly Jackson is correct in asserting that our ability to dominate and

totally reconstruct the natural environment, in the name of improving human welfare, has reached awesome proportions. The TVA is itself a monument to our engineering prowess. But is Jackson's view too optimistic? Other observers, such as Raymond Dasmann, are far less enthusiastic about our capacity to develop new cultural landscapes that are at the same time efficient, humane, and respectful of nature's interests. Does the size of our population, the demand for individual affluence, and the shrinking of our resources suggest other conclusions?

The same technical ingenuity which called forth the TVA also fashioned the sprawling megalopolis discussed by Jean Gottmann. Instead of the many distinctive landscapes of the colonial period, we have today a single, monotonous landscape from Massachusetts to Virginia: nearly identical highways, commuter trains, central cities, housing tracts, motels, gas stations, and drive-in hamburger joints. But, it is well to ask, does this latest American landscape also contain a community within which its members have a sense of *their* unique identity and participation? Do they feel a common purpose or shared mission such as that which animated the first inhabitants? Moreover, is the creation of such a community still a viable possibility for America?

STUDY QUESTIONS

1. Compare and contrast the colonial New England village-centered landscape with the grid-system "private" landscape of the later period. How did each reflect and affect the aims, opportunities, and obligations of its residents?

SUGGESTED GUIDELINES

Begin by describing the physical arrangements of the New England village. Then observe that although the founders of those towns followed the model of their homeland villages, the purposes they expressed in many of the same forms were very different. Consider Johnson's account of the Puritan land system and Jackson's discussions of how the houses centered closely around the common grazing field and the single church reflected religious and economic objectives, patterns of social interaction and political participation, and frontier defense requirements. If these tightly knit, organic communities focused on a common religious purpose, what economic, political, and social benefits did they also provide residents? What behavior patterns did such a community require? How did the natural resources of the area affect community options? What developments in the eighteenth century made these villages no longer attractive to new generations?

Now describe the characteristics of the grid-system landscape. How did the isolated family farm and the "open country neighborhood" reflect earlier colonial patterns? What new personal objectives did this landscape

reflect? Why had individualism replaced the community-centered goals of the New England village? Did the privacy and opportunity gained compensate for the social harmony lost? Observe that the Federal ordinance regarding settlement of the Old Northwest did provide support for public education. But what social needs did it ignore? What role did land speculation play in shaping community life? How did isolation and loneliness affect family life and personal development? How were new religious objectives expressed in the location and variety of churches? Did the grid-system communities fulfill Jefferson's political expectations? Why did the system prove unrealistic as settlement moved west?

2. Discuss the effect of technological developments on the American landscape at different periods in our history.

SUGGESTED GUIDELINES

First consider the fact that seamanship techniques and firearms made the European intrusion on the American landscape possible. Note that although few settlers had the capital to utilize all existing technologies, even the pioneers' simple metal implements such as the ax hastened the transformation of primal forests into agricultural fields. These modest tools also enabled them to reproduce other material elements of European civilization in America and to make better use of the technology learned from the Indians. Consider too how ocean-going vessels facilitated the economic development of the colonies, thus shaping commercial port cities and southern river-centered plantations, and brought the flood of immigrants to fill the land.

Consult Sauer as to how later transportation developments such as improved roads and wagons, canals, steamboats, and railroads hastened the opening of new regions, and how the steel plow and agricultural machinery fashioned the rural landscape. Consider the effect of the industrial revolution on American cities. What was the technical basis for the mill towns and factory cities? If, as Jackson argues, the model of engineering efficiency underlay the emergence of the "landscape of work" in both urban and rural areas, what technological elements were involved in that process? How did a series of innovations in building, transportation, manufacturing, and power technology transform the urban landscape in the late nineteenth and the twentieth centuries? If the streetcar helped to destroy the "walking city," what effect has the automobile had? How have the telephone, radio, and television affected social space? Finally, has modern science and technology outstripped our capacity to control the development of new landscapes in socially desirable directions?

3. Discuss the factors that have led to new attitudes toward land use in America.

SUGGESTED GUIDELINES

Consider land in terms of its use as a natural resource, its allocation for different social and economic purposes, and its function for individuals. Start from the premise that an abundance of land encouraged Americans to exploit its resources without regard for the future. Observe that the destructive pattern of farming, mining, and timbering practices that was set in the colonial period continued largely unquestioned into this century. Although, as Dasmann points out, an attitude of social responsibility for the environment has always been present, our high geographic mobility and individualistic tradition more often resulted in misuse of land resources. What developments in the late nineteenth century finally produced a significant conservation movement in the United States? Why were reasoned conservationist arguments like those of George Perkins Marsh so long ignored? Consider Lilienthal's description of the TVA. How did it come about? Why do you think it was never duplicated elsewhere? How have Federal reclamation, water, and power projects, in existence since the 1930s, reflected public attitudes? What new factors brought about the recent ecological-conservation movement? Can its objectives be reconciled to private property interests and individuals' economic needs?

If urban land use patterns formerly reflected primarily the response of private owners to economic opportunities, how and why has government intervened in that process? What social objectives do modern zoning laws reflect? Do these laws equally benefit all segments of society? Jackson notes that most Americans have now broken their ties with the rural landscape. Consider why a new consciousness of a need to reestablish contact with nature has emerged. Do public parks and suburban living adequately satisfy this need? Is the recent movement of industrial and commercial activities into rural areas, as described by Gottmann's megalopolis, a response to this need? Finally, consider how a significant new factor — the energy crisis — affects land use attitudes and options.

4. Jackson sees the new, developing American landscape as replacing an *individual* relationship with the environment by a *social* or *collective* one, in which the "welfare landscape" becomes the "ecological landscape." Do you agree with his analysis of present trends?

SUGGESTED GUIDELINES

Begin by carefully rereading Jackson's last article. Be sure you understand just what he means by the "welfare" and "ecological" landscapes. Consider how both of these landscapes involve a collective rather than an individual relationship between human beings and the environment.

What factors influenced this shift from the individual focus of the past? If technology, applied by the engineer to such social needs as recreation, health, communication, and housing, created the welfare landscape out of the older landscape of work, what role does Jackson see for technology in bringing about an ecological landscape? Are the TVA and the other examples he cites evidence that technology can be made to serve collective ends? If collective ends remain dominant will they be socially constructive?

Consider Jackson's discussion of recent developments. Do you believe the ecological-conservationist movement places too much emphasis on our relationship to the environment and too little on our relationship to each other? How likely is it that Skinner's environmentally conditioned man will come to prevail? Jackson is hopeful about our future prospects. Is he perhaps too optimistic as Parrish's commentary in this unit of the Study Guide suggests? What evidence does Jackson offer to support his optimism? Are Dasmann's warnings regarding the political realities of modern conservation sobering? Are we, as he argues, too committed to an expanding economy to take necessary action soon enough? Does our past performance in putting economic needs ahead of environmental concerns, as Dasmann and Mumford show, support a pessimistic view? What trends does Gottmann's "megalopolis" demonstrate? What encouraging signs does Dasmann find that indicate we may be developing an "ecological conscience"? Finally, how convincing is Jackson's vision that technical means and new perspectives will allow us to create a balanced landscape that respects both human needs and the earth itself?

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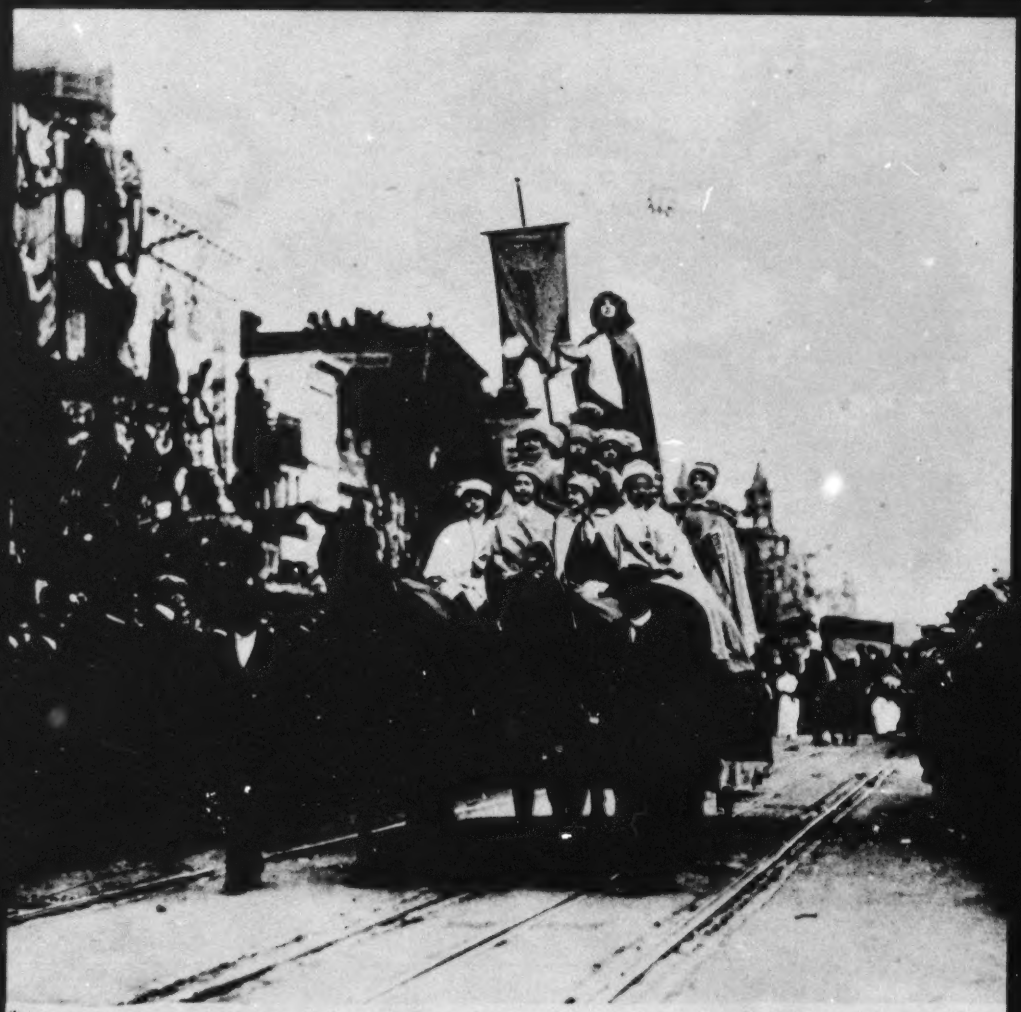

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UNIT THREE:
"CERTAIN UNALIENABLE RIGHTS"

KEY CONCEPTS

The power to govern. This unit and the next discuss some important questions regarding the exercise of governmental power in our society. In the American political system established by the Constitution, *sovereignty*, the power to govern, comes directly from the people themselves, a concept we call *popular sovereignty*. In adopting the Constitution, the American people gave limited powers to the national government, prohibited certain actions by the states, and reserved all other governmental powers to the states or to the people as a whole. A national political system in which power and responsibility is shared by a national government and its constituent states is called *federalism*. The Constitution further divided the power delegated to the national government among the *legislative*, *executive*, and *judicial branches*—the Congress, the Presidency, and the Federal courts. This *separation of powers* was designed to use "checks and balances," through which each branch would exercise controls over specific actions of the others, thus lessening the dangers of arbitrary government.

Constitutional rights. Certain clauses in the original Constitution, the *Bill of Rights* (the first ten amendments) and other later amendments guarantee individuals specific *substantive rights*, such as freely expressing opinion, practicing religion, and voting, and *procedural rights* that limit the manner in which government power may be exercised, particularly in the enforcement of criminal law and in actions involving property rights. This unit considers the fundamental constitutional rights to freedom of speech, freedom of the press, freedom to assemble, and freedom against unreasonable search and seizure (with its corollary right to privacy). It also examines the central role the Supreme Court plays in interpreting these rights and the right to the "equal protection of the laws." The protections under the Bill of Rights originally applied only to the national government. The Fourteenth Amendment's "due process" and "equal protection" clauses were intended to safeguard the rights of black Americans from *state* infringement, but its language affords such protection to all citizens.

The Supreme Court and judicial review. The Supreme Court's most important function, that of judicial review (ruling on the constitutionality of state and Federal law), is not expressly stated in the Constitution, although Hamilton's *Federalist No. 78* makes it clear that at least some of the framers expected the Court to play that role. The practice of judicial review developed under Chief Justice John Marshall's leadership, beginning with the case of *Marbury* v. *Madison* in 1803. The Court does not initiate the review process, but rules only on the law involved in cases brought to it. The Court's decisions are determined by a majority vote. One of the Justices who favors the decision writes "the opinion of the court," called the *majority opinion*. A Justice who agrees with the decision

but not with the reasons given in the Court's opinion may write a *concurring opinion*. A Justice who disagrees with the Court's opinion may write a *dissenting opinion*, with which others may concur. The Court's majority opinions set *precedents* that are binding on all lower courts, state and Federal, but the Court occasionally reverses its own precedents, reinterpreting the Constitution to meet new conditions. Concurring and dissenting opinions often indicate the potential direction such reinterpretation may take.

Judicial activism and **judicial self-restraint.** These terms describe competing philosophies about the proper approach Supreme Court Justices should take in interpreting the Constitution. Justices who broadly define the Court's role in public policy making and advocate vigorous interpretation of the Constitution to meet social needs are said to practice *judicial activism*. Those who call for *judicial self-restraint* narrowly define the Court's review function. They argue that interpretation must be carefully exercised, with the Justices maintaining strict objectivity, observing procedural traditions, and following the doctrine of *stare decisis* (deference to past judicial decisions), if the proper balance is to be maintained among the branches of government. Critics claim that judicial activists allow their personal convictions to affect their decisions. But, as Leonard Levy argues, the Constitution's vague wording necessarily involves all Justices in value judgments, no matter how objective they believe themselves to be. In this view all Justices are activists.

Opponents of judicial activism accuse the Court of *judicial usurpation*, exercising powers it has no right to assume. Defenders of the activist approach claim that a responsible Court must fill a vacuum if the legislative or executive branches fail to fulfill their obligations to the Constitution.

"Clear and present danger" became one standard by which the Supreme Court attempted to define the circumstances under which government might punish speech and the type of speech entitled to protection under the First Amendment. As developed by Justice Holmes and others, "the clear and present danger" test forbids the government to limit an individual's speech unless (1) the words are intended to provoke an illegal action and (2) there exists strong probability that such illegal action will follow immediately.

"Evil mind and evil tendency" refers to another test by which the Supreme Court has sought to interpret the boundaries of the First Amendment relating to speech. By this standard, radical pronouncements —for example, the urging of violent revolution—can be punished by the government even though no "immediate" danger exists that such words will incite individuals to revolution, violence, or the commission of other illegal acts.

Alien and Sedition Acts were adopted by Congress in 1798, during a period when war between the United States and France seemed imminent. These acts gave the President power to deport from the country any alien who was deemed dangerous to the country; they also provided for the prosecution of individuals who published what were called "false or malicious" reports concerning the President or the government. Many Americans, including Thomas Jefferson and James Madison, condemned these laws as unconstitutional, although the Supreme Court never ruled on the issue.

ARTICLES AND READINGS

Michael E. Parrish

America's "civil religion," John Higham proposed in his articles, constitutes the basis of our national unity. At the core of that "civil religion" one finds a belief in individual liberties. The Declaration of Independence spoke of "certain unalienable rights . . . among these are life, liberty, and the pursuit of happiness." In 1789, the people of the United States ratified the Constitution, sharply limiting the powers government might exercise. Three years later, the people also added a Bill of Rights to their fundamental charter of government. Alan Barth's articles examine important provisions of the Bill of Rights and the Constitution and why they form the primary text of our "civil religion."

The Constitution and the Bill of Rights can be viewed as a solemn contract in which the people obligated themselves and their public servants to observe certain individual rights and limitations upon governmental authority. But nowhere does the Constitution explicitly state who shall guarantee that the limitations are respected. Who should enforce the conditions of this momentous contractual agreement? Many of the Founding Fathers, trained in the common law, assumed that the courts would carry this burden in the same manner as they enforced private contracts between individuals.

Alexander Hamilton wrote a brilliant defense of the Supreme Court's role as final arbiter of the Constitution in the *Federalist Papers*. His exposition was put into practice by the Supreme Court during John Marshall's term as Chief Justice, when, for the first time, the Court found a Congressional law to be in excess of power granted by the Constitution. From Marshall's day to the present, the Court has continued to exercise this controversial but necessary power of determining whether laws adopted by the Federal government or the states conform to the restrictions imposed by the people in the Constitution and the Bill of Rights.

Barth and Leo Pfeffer both point out the pragmatic as well as the idealistic considerations that led to the adoption of the First Amendment protections of speech, association, and the press. Freedom of expression, the framers affirmed, in the long run promoted greater social and political stability than official efforts to stifle protest or manufacture a consensus of opinion where none in fact existed.

As children of the Renaissance and of the eighteenth century Age of Enlightenment, the Founding Fathers valued freedom of expression because of their belief that mankind made progress in the arts, science, and government only through critical inquiry and constant reexamination of the social and physical environment. "Yesterday's heresy," as Barth notes, "may become tomorrow's orthodoxy." The framers of the Constitution and the Bill of Rights had themselves been branded as "heretics" by the British authorities between 1775 and 1787. Madison, Adams, Franklin,

Jefferson, and Hamilton did not believe that the governmental system established in the Constitution and the Bill of Rights represented "human perfection" in some absolute sense. Such notions would have seemed to them complete folly.

Rather, they viewed their system as an "experiment," subject to revisions in light of new information, fresh perceptions, and unforeseen human needs or aspirations. The source of its vitality—and of human progress generally—rested upon the freedom to think, to speak, to associate, and to write as guaranteed by the First Amendment.

Barth and Pfeffer examine the gaps between First Amendment theories and practice that opened even during the lifetimes of Adams and Jefferson and that have persisted into our own generation. They discuss why and under what circumstances Americans attempted to curb speech, association, and the press. When the American people ratified the First Amendment, what promises did they in fact make? Has the Supreme Court interpreted these promises in the Constitutional contract correctly?

Boundaries of First Amendment Freedoms

Clearly, as Barth and Pfeffer allege, the First Amendment did not promise absolute freedom in *all* circumstances for *all* verbal and written communications. "They could not have intended," Pfeffer writes, "that a person who during wartime discloses to the enemy . . . planned movements of our armed forces should be immune from punishment." Or, as Justice Holmes pointed out in his dissent in *Abrams* v. *United States*, surely the government could punish "persuasion to murder" in addition to murder itself when such persuasion "produces or is intended to produce a clear and present danger that it will bring about forthwith certain substantive evils that the government constitutionally may seek to prevent." Once the absolutist position has been put aside, however, the real constitutional and judicial dilemmas begin. Without an absolute standard, how are the Courts to draw both constitutionally meaningful and consistent distinctions?

Did the first Alien and Sedition Acts, for example, spring from a bona fide concern about unlawful revolution or simply from Federalist paranoia over criticism of their regime? Was it wholly irrational in the 1790s for one to believe in the threat of revolution and the necessity to take strong measures to prevent it? The Supreme Court never ruled on the Alien and Sedition Acts, but it faced an analogous situation in the late 1940s amidst the Cold War.

In retrospect, the tiny American Communist Party of the 1940s and 1950s does not seem to have constituted a dire threat to our Constitutional system, yet in the famous *Dennis* case its leaders were convicted under the Smith Act, which made it a crime "to conspire to advocate" the overthrow of the government, even though no acts of violence or revolution had been planned or carried out. A plurality of the Supreme Court argued in effect that forming an organization with the

intent to *advocate* revolution constituted a "clear and present danger" in the tense world situation of 1948 to 1950. The government, they reasoned, was not obliged to wait for the revolution to occur before defending itself.

This decision outraged Justices Black and Douglas, who dissented vigorously on the grounds that the Court had destroyed Holmes' "clear and present danger" test. No rational human being, they maintained, could believe that advocacy of a communist-style revolution in America in 1948 presented a genuine threat to bring about "forthwith" the overthrow of Constitutional government.

Despite the *Dennis* decision, representing the most extreme denial of free speech in this century, the "clear and present danger" formula has functioned as an important standard in most First Amendment cases. Upon occasion, however, when social tensions have run high and the dangers of radical protest seemed great, the Court has permitted speech to be punished under the so-called "bad tendency" or "evil tendency" theory discussed by Pfeffer.

Consider the recent case of *Brandenberg* v. *Ohio* in the Reader. What standard did the Court adopt? Why? On the basis of your readings, do you think Barth is justified in concluding that "the real boundaries of free speech have been left . . . in limbo; and no one can define them today with any certainty"?

The boundaries of free press, Barth maintains, have become equally fuzzy around the edges. Prior restraint or censorship *before* publication, once regarded as flatly unconstitutional, was actually practiced by the government in the Pentagon Papers case; however, the Supreme Court refused to sustain the government's action and the *New York Times* and the *Washington Post* resumed their printing of the controversial documents. Justice Black's opinion did not represent a consensus view on the Court, which noted that the government had failed to meet the "heavy burden" required to justify prior restraint. As such, the Court left the door ajar for future government attempts at censorship, particularly in areas where the broad cloak of "national security" could be worn to halt publication. How is the Court to determine whether such information jeopardizes American security? Should these claims take priority over the right of the people to know more about the execution of their government's foreign policy, above all in situations like Vietnam in which the policy they were asked to support rested upon falsehoods, cover-ups, and illegality? How can the people begin to make intelligent decisions about their servants without information? In view of Pfeffer's discussion, do you think Black's analysis in the Pentagon Papers case *(New York Times* v. *United States)* more accurately reflects the promises contained in the First Amendment regarding freedom of the press?

Protecting Privacy

The protection of national security has also been invoked to justify in-

vasions of individual privacy, guaranteed by the Fourth Amendment. On June 10, 1975, slightly more than one year before our 200th anniversary as an independent nation, the Rockefeller Commission, appointed by President Ford to investigate the domestic spying activities of the Central Intelligence Agency, reported that this official organization of the United States government had secretly opened 13,000 letters a year, installed 64 wiretapping or eavesdropping devices, and authorized 12 burglaries, all involving American citizens. "None of these activities," the commission reported, "was conducted under a judicial warrant, and only one with the written approval of the attorney general."

The CIA's systematic, lawless invasion of individual privacy is exactly the kind of occurrence that the American people attempted to prevent by means of the Fourth Amendment. Their experience with the general search warrants employed by the British had convinced them that government officials could always seize upon some argument—increased smuggling or "colonial security"—in an effort to justify breaking into their homes or offices in search of contraband and seditious literature.

The framers of the Fourth Amendment believed in the right of citizens to be left alone, free from governmental harassment, intimidation, and restraint, unless they had violated a law or were in the process of violating the law. In the latter situation, they wanted a neutral magistrate or judge to pass upon the evidence of probable cause and issue a search warrant before permitting law enforcement officials, on their own initiative, to search and seize persons or things.

The framers also cared about "law and order," the punishment of wrongdoers, and protection of life and property, but they believed that all of these wholesome objectives could be accomplished within the framework of the Fourth Amendment. Why have policemen, if they behave like criminals? The Fourth Amendment was designed to safeguard the innocent by providing a reasonable standard for apprehending the guilty.

Consider these Fourth Amendment problems in the context of Justice Jackson's famous opinion in the *Johnson* case. Are you shocked by the Court's decision? Johnson, it would appear, was plainly breaking the law and ought to have been punished. Why, then, did the Court reverse the conviction? Are you persuaded by Jackson's reasoning? If not, why not?

The *Johnson* case as well as the articles in the Reader by Henry Abraham, Leonard Levy, and Harry Scheiber, all address themselves to the issue of how the Court balances the desire of society to pursue and convict law breakers with the equally intense desire, expressed in the Fourth Amendment, to be free from official snooping and coercion. It is no answer to this problem to say that only criminals are subjected to warrantless searches and seizures, because recent news accounts tell us of innocent victims shot by Federal narcotics agents who entered the wrong dwelling, without a search warrant!

Since the early 1960s, the Supreme Court has required the exclusion of evidence in both state and Federal criminal trials when the evidence has

been seized by the police illegally. Critics of this rule argue that the Bill of Rights does not require the exclusion of evidence (such as drugs or firearms) seized by police in violation of the Fourth Amendment and that this limitation forbids the use of "the best evidence" that might convict criminals. In response, a majority of the Court has argued that without the so-called "exclusionary rule," prosecutors and the police will not obey the Fourth Amendment. How would you decide this issue?

The framers of the Fourth Amendment, of course, did not visualize the telephone, sensitive microphones, or the modern computer, but each of these devices has presented a difficult problem in light of the Fourth Amendment's protection of individual privacy. Barth discusses how the Supreme Court has dealt with wiretapping and electronic eavesdropping within the context of traditional Fourth Amendment theories.

In the aftermath of Watergate, presidential abuse of Internal Revenue Service records, and the Rockefeller report on the CIA, the problems raised by Congressman Goldwater, including his own efforts to enact into law an Omnibus Privacy Bill, assume major importance. These questions go to the spiritual heart of the Fourth Amendment, even if they do not always take the obvious form of a search or seizure: what information should the government be allowed to collect regarding the personal, social, and economic life of individual citizens? How should this information be used and who should know about it? Where should the balance be struck between the government's need for certain information in order to regulate economic activities and the individual's right to privacy?

Equality Under the Law

The Fourteenth Amendment, adopted following the Civil War, contained two momentous provisions whose significance has yet to be fully defined, but which have formed the core of Constitutional development in the past century: "No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property without due process of law; nor deny to any person . . . the equal protection of the laws."

In seeking to implement the promises made in the "due process" and "equal protection" clauses, the Supreme Court, primarily during Earl Warren's tenure as Chief Justice, refashioned American race relations, drew attention to the enduring problems of social inequality, and improved the standards of criminal justice throughout American society.

C. Vann Woodward recounts the complete failure of the American people to provide "equal protection of the laws" in the area of race after the elimination of slavery. The Warren Court's unanimous 1954 decision in *Brown* v. *Board of Education of Topeka*, commanding an end to racially separate public schools, ended one era and began another, because it focused concern upon the question of how American society allocated economic opportunities, social advantages, and political power generally. The *Brown* decision and the ensuing civil rights movement attacked the

most irrational basis of allocation: race or nationality. Here was the clearest, most flagrant departure from "equal protection of the laws." Yet, were there not other social arrangements in America, apart from race, that functioned in the same manner and denied citizens equal treatment or equal access to opportunity?

Brown became a milestone because it formed the theoretical basis of the "new" equal protection clause, which individuals other than blacks invoked to challenge many American inequalities and discriminations in voting, job opportunities, and criminal justice. Responding to these claims, the Warren Court and later the Burger Court struck down the poll tax on the grounds that it denied equal participation in the political process by withholding the ballot from those too poor to pay. It also required reapportionment of state legislatures on the basis of equal population districts, and it demanded that the states provide legal counsel to paupers and make available transcripts of their trials for the purposes of making appeals. Finally, as Eve Cary writes, sexual discrimination became a "suspect" category of inequality in much the same manner as race, income, or place of residence.

Obviously, neither the Supreme Court nor the other political branches of government at the Federal or state level have as yet insisted upon absolute social, economic, and political equality for all Americans. Not only would such absolute equality prove difficult to define and enforce, but the costs to society could be enormous. Many women, for example, opposed the adoption of the Equal Rights Amendment to the Constitution. Myra Wolfgang and Senator Sam Ervin, whose views are set forth in the Reader, argue that special legislation is still required to guarantee women adequate protection, especially on the job. Proponents of the Equal Rights Amendment counter that such wholesome laws should be applied to *all* American workers, men as well as women.

So-called "affirmative action" programs, designed to assure women and racial minorities access to jobs and educational programs, also raise difficult questions of equality and justice. Can a state-supported law school, for example, admit black students and, at the same time, deny admission to white males with higher college grades and test scores? The Supreme Court of Washington state recently upheld such a policy on the grounds that preferential treatment for black applicants constituted a reasonable remedy to correct past racial discrimination by the state's law school. The United States Supreme Court has not yet ruled on this issue. How would you decide the case in light of the equal protection clause as well as the history of racial segregation and discrimination?

The Court, finally, cannot easily redistribute national income; the rich still contribute more to political campaigns. Nor has the Court denied to the legislatures the power to make reasonable classifications or distinctions among individuals and groups when writing new laws. The licensing requirements for veterinarians need not be the same as for brain surgeons, even though both are "citizens" and "doctors." What the "new" equal

protection does mean, however, is that gross discriminations will not be tolerated under the Fourteenth Amendment and that all Americans must now face up to the issue of how much equality they want, both for themselves and in relation to others.

The Role of the Supreme Court

Barth's articles and the concluding Reader selections by Scheiber, Kilpatrick, and Levy address themselves to the old, but still fundamental, question of the Supreme Court's role in the total Constitutional system and its relationship to other political branches of government. To what extent can the Court be accused of engaging in too much "activism" with regard to the enforcement of constitutional promises? The Court, after all, does not initiate lawsuits or necessarily frame the specific issues. Normally, the Court decides only "cases" or "controversies" brought before it by individual litigants; each year it rejects more appeals than it hears or decides. The Court is hardly to be blamed for the fact that individuals have in fact felt deprived of due process, equal protection, or the freedom to speak and write openly without fear of official reprisals.

It no doubt would have been more desirable from a practical standpoint, Levy and Scheiber suggest, if the Congress, the President, and the state legislatures had passed new laws ending racial segregation, reapportioning legislative districts, and preventing the police from coercing confessions from suspected criminals. Legislative acts have a broader impact than separate law suits. But these other institutions, Federal as well as state, did not respond. How long, given such apathy or indifference, were disgruntled citizens expected to wait before their Constitutional rights could be tested and vindicated? Ten years? Fifty? One hundred?

Kilpatrick suggests that the Court has often ignored popular sentiments, moved too rapidly, and failed to build mass support for its decisions. This criticism ignores, of course, the Hamiltonian justification for judicial review: when the Court interprets the Constitution it attempts to enforce "the will of the people." If it fails completely in this endeavor, the people will amend the contract or remove its interpreters from office. It is worth noting that "popular" outrage has not yet overturned major decisions from the Warren years. Of course, the Court cannot function without support from the people, but neither, our history suggests, can the people function very well without the Court. At least they have not yet seen fit to try.

STUDY QUESTIONS

1. Describe the historical background to the Constitution's protections of Americans' fundamental rights. How have changing conditions affected their interpretation and application? Has the Supreme Court adequately fulfilled its role in protecting individual freedoms?

SUGGESTED GUIDELINES

First consider the essential relationship of the rights Barth discusses to the theory of self-government and to a political system intended to limit governmental power. Then note the central role our independent Supreme Court plays in protecting those rights. Now observe how the Bill of Rights was influenced by the colonial and revolutionary experience. How did it reflect personal rights Americans had enjoyed under English law or abuses suffered under British rule? Why did the Bill of Rights originally apply only to actions by the national government? What motivated passage of the Fourteenth Amendment, and what developments led the Court to gradually extend its protections against state actions in order to include most Bill of Rights guarantees? Why did that process take so long?

Review Pfeffer's discussion of the kinds of distinctions the Court has made in weighing the claims of freedom of expression against other social interests. How has the Court's use of the "clear and present danger" test in different cases reflected the temper of public opinion? Why has fear of subversion so often proved stronger than concern for individual freedom? Are the people themselves responsible for the way freedom of speech is defined by the Court? How do you answer Barth's query as to whether we really want free trade in ideas?

Consider how modern technology has affected the rules of evidence and the right to privacy. Has the Court responded adequately to these new threats to personal freedom? How well have recent decisions balanced personal freedoms against community protection from crime and national security requirements? What dangers to freedom of the press does Barth see today? Has the Constitution, as interpreted by the Court, proved sufficient to protect individual freedoms from new challenges, or should it be further amended?

2. How and why has racial minorities' and women's experience of "equal rights" under the Constitution differed from that of other Americans? Are those groups now assured "equal protection"?

SUGGESTED GUIDELINES

Your purpose here is to consider how traditional attitudes on race and sex shaped the Constitution and affected its interpretation and enforcement. Turn first to racial minorities. Focus on black Americans, in as much as the

Constitutional provisions that impinge on race and the related Supreme Court cases discussed here stem directly from their experience. Review the Higham section material regarding slavery and racism's effects on all nonwhite Americans. Then trace black Americans' experience after emancipation. Why did the Fourteenth and Fifteenth Amendments and the 1875 civil rights legislation fail to guarantee black men the vote and fail to prevent "Jim Crow" practices? Explain the significance of the 1896 *Plessy* decision. Why was it another fifty years before the Court accepted Justice Harlan's view that the Constitution is "color-blind"? What factors finally brought that about? If the 1954 Brown decision overturned the "separate but equal" doctrine, why did it stimulate rather than end black civil rights activism? How were other minority groups affected?

Now compare women's experience of discrimination to that of racial minorities. What assumptions about women does their unequal treatment under the law reflect? Why was women's right to vote not guaranteed until 1920? Are women more "protected" by the law when they are not treated equally with men, as Ervin and Wolfgang maintain? Consider the actual wording of the proposed Equal Rights Amendment. How convincing are their arguments against it? Would Cary's description of the employment and credit discriminations women still encounter serve as an argument in favor of the amendment? Are you aware of other inequities women experience that were not discussed here? Given the impermanence of Supreme Court interpretations, should women rely on the Court extending Fifth and Fourteenth Amendment protections to them or would the Equal Rights Amendment make their rights more secure?

3. Discuss the arguments for and against judicial activism. With which point of view do you agree? Why?

SUGGESTED GUIDELINES

Begin by defining judicial activism and reviewing the various instances of it described in the readings. Note that judicial activism has at one time or another served either liberal or conservative ends. Does the value of judicial activism depend on its particular objectives? Can one approve either conservative or liberal activism while condemning the other? Is the Court ever justified in shaping public policy in a direction different from that taken by the people's elected representatives?

Consider the evidence Levy and Scheiber offer in support of the Warren Court's liberal activism and Kilpatrick's arguments against it. Which position is more convincing? Do you agree with Levy and Scheiber that the Court should serve as the country's conscience? Are their descriptions of the gap between American ideals and practice before the Warren years an effective argument for liberal judicial activism? Do you agree with Warren's view that our traditional rights "need constant and imaginative applications to new situations"? Now review the elements Kilpatrick

ascribes to judicial self-restraint. Do you agree with his argument that such restraint is "the only effective rein upon life-tenured judges"? Does his description of the Warren Court's decisions convince you that it stepped beyond its proper bounds? If you agree with his position that "compassion has no place in construing the Constitution," what evidence is there that compassion rather than reason motivated Warren Court decisions? Finally, does judicial activism, whatever its purpose, violate the concept of separation of powers that is part of the American people's contract with themselves, or is it a necessary mechanism in enforcing that contract's agreements?

4. Describe the areas of Constitutional law that the Warren Court reshaped. How "revolutionary" do you consider the Warren Court to have been? Has the Court gone "too far and too fast" as some critics claim?

SUGGESTED GUIDELINES

Note that although the Warren Court is best known for its decisions involving desegregation, reapportionment, and criminal "due process," it also reversed existing Constitutional law in its rulings on birth control and the right to privacy, religion in public education, and loyalty and security issues. Taken together these comprehensive reversals constitute a "judicial revolution," but were they "revolutionary" in the broader sense?

Consider the prevailing public opinion on these issues. Is a Court "revolutionary" when it runs counter to majority views and evokes significant protest? Were some of these rulings more drastic in their effects for American society than others? Which encountered the most opposition? Why?

Critics argue that many of these decisions involved an attack on states' rights that radically altered the Constitutional federal-state division of power. If that is so, is it a "revolutionary" development? Consider, for example, whether the "all deliberate speed" ruling in the 1955 desegregation case, the reapportionment decisions' "one man, one vote" doctrine, and the *Gideon*, *Escobedo*, and *Miranda* decisions unduly invaded the rights of state and local governments. Consider too how the executive and legislative branches of the national government responded to the Court's initiatives. Is the fact, for example, that the *Brown* decision stimulated civil rights activism, which finally resulted in Federal legislation, evidence that the Court struck a timely chord in awakening the public conscience to the requirements of justice? Did the criminal "due process" rulings also result in a positive response?

Has a Court gone too far when it evokes so extensive a public backlash that violence results, when the Court itself is subjected to personal and political attack, and when complete revision of the Constitution is advocated? Would some critics who believe the Court has gone too fast accept the same changes if they took place over a longer period? Were all of the

Warren Court's critics who advocated "judicial self-restraint" arguing from principle or were some, as Scheiber suggests, in fact concerned about maintaining vested social privileges? Finally, consider the fact that the Burger Court has not significantly reversed these rulings and no Constitutional amendments affecting these areas have since been passed. Is this evidence that the Warren Court did not, in fact, move too far too fast?

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Article 13: Equal Protection Under the Law

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UPI-COMPIX

UNIT FOUR:
"A MORE PERFECT UNION": THE AMERICAN GOVERNMENT

KEY CONCEPTS

Separation of powers describes the system of national government provided for in the Constitution of the United States. Although sovereignty (or final authority) resides with the people, they bound themselves and their public servants with a written document, defining the scope and limitations of governmental power. They also allocated specific portions of their sovereignty to different institutions of government: thus Congress may exercise only the legislative power; the President, executive power; and the Federal courts, the judicial power. Separation of powers refers to this division of competence and authority. In practice, of course, the boundaries among the various branches and functions have not remained clear. Congress has often delegated to the President the power to enforce a general law by drawing up specific rules and regulations that in fact become new or additional legislation. Many administrative agencies created by Congress, such as the Federal Power Commission or the Securities and Exchange Commission, exercise legislative and judicial power when they adopt regulations and hold hearings prior to issuing decisions. The courts, finally, have the power to invalidate acts of Congress, the President, and administrative agencies if they conflict with the Constitution or exceed statute law.

Checks and balances refers to the political theory derived from the separation of powers in the Constitution. Each branch of the national government, acting within its proper sphere of authority, can prevent the accumulation of excessive power in the other, coequal branches. The framers of the Constitution hoped in this manner to prevent tyranny by any one unit of the system, but they also anticipated cooperation among the units. In Article I of the Constitution, for example, Congress is given the power to "declare war" and "to raise and support armies . . . and maintain a navy." At the same time, the President was made "commander in chief of the army and navy." These provisions suggest that the Founding Fathers did not wish either branch to completely control the life-and-death issues of war and peace or the use of military force. They opted for both competition and negotiation between the two branches. Although the Supreme Court may invalidate acts of Congress, the national legislature may regulate at will the Supreme Court's appellate jurisdiction, thereby determining the scope of the judiciary's power to hear certain cases. The President, of course, may decisively influence the course of judicial decisions when he nominates individuals to fill vacancies on the Supreme Court. His selection, in turn, must be confirmed by the Senate.

Federalism describes a second major feature of the American system of government, the division between national (Federal) authority and the various states and their political subdivisions. Although the Constitution explicitly denied many powers to the states (they cannot, for example,

enter into treaties, coin money, or impose taxes or duties on imports and exports), the states and their subdivisions retained all powers "not delegated to the United States." State and local governments in America have therefore continued to exercise a wide range of civil and criminal jurisdiction over their residents. The continuous rivalry between the states and the national government, although at times acrimonious, has also provided a basic safeguard for the American people by dispersing decision-making authority and encouraging experimentation with governmental policies.

Righting the balance of power. Many changes have occurred in American political power relationships since the Constitution was adopted. Government functions at all levels are now vastly expanded, but the power and importance of the Federal government has overbalanced that of the states, reversing the traditional predominance of state and local government in public policy making. At the same time, within the national government the power of the Presidency has grown at the expense of the Congress. New relationships between the President, the Cabinet, and the party system reflect further shifts in the exercise of political power in the United States. This unit considers these developments and examines strategies for righting the power balances in order to meet modern conditions within a framework of popular responsibility. One suggested reform is a return to the ideal of *decentralization*, the dispersion of political power to many state and local units rather than concentrating power in the central government. Others argue that the true imbalance is that between government and the private sector, asserting that many functions now performed by public agencies should in fact be left to private groups, a concept called *privatism* or *voluntarism*. Your readings offer several proposals for restoring the balance between Congress and the Presidency. Kearns argues that none of these imbalances can be corrected without addressing the more fundamental question of the relationship between socioeconomic and political power in our society.

Congressional abdication. A term used by critics who believe the Congress has failed to exercise its responsibilities to "check" the power of the Presidency or has left to the executive branch powers that the Constitution intended the two branches to share. Kearns describes those "checks" and argues that the focus of the modern Congress on reelection contributes to its abdication of responsibilities in both domestic and foreign affairs. Kurland details the way in which Congress has surrendered to the President its power to initiate legislation, failed to exercise its investigative role, and largely given up its power to oversee the administration of Federal laws.

"The Imperial Presidency." Schlesinger uses this term to describe the powerful modern Presidency that reached a peak of arrogant aggrandizement under Richard Nixon and became a "revolutionary Presidency"

contrary to the Constitution's intent. The power of the Presidency has grown especially in the area of foreign relations, but also in domestic affairs through the expanded use of what Kurland calls "Presidential legislation"—"executive orders" and administrative "guidelines." Nixon brought the process to an unprecedented stage through his use of "Presidential impoundment" (refusing to expend funds appropriated by Congress) and by attempting to extend to his staff and Federal administrators the concept of "executive privilege" (the right to withhold information from the Congress or the courts). Another symptom of Nixon's "imperial" attitude was his demand for "respect for the office" as an institution, which challenged the tradition of tempered irreverence Americans accord their Presidents. Schlesinger sees these developments as an attempt to create a "plebiscitary Presidency" in which the chief executive is only accountable to the people through the Presidential election process or impeachment.

Citizen apathy. The tendency of citizens to feel powerless to effect change through the political process has resulted in lack of interest in political issues and political participation. Disillusionment with government leadership grew from the Vietnam War experience, the failure of social programs, the Watergate scandals, the energy crisis, and the recent economic downturn. One factor that causes citizen apathy is our high geographic mobility, which hinders the development of a sense of community interest and contributes to a feeling of alienation or separation from societal responsibility.

ARTICLES AND READINGS

Michael E. Parrish

The American people, Philip Kurland cites Adlai Stevenson as saying, get the kind of government they deserve. "The trouble with the House of Representatives," an observer quipped recently, "is that it represents the American people too well." Both comments betray disenchantment with the structure, objectives, and accomplishments of American political life, but for slightly different reasons. Stevenson's remark suggests that the defects in government are attributable to the kinds of people elected to public office. The other comment suggests an institutional weakness, transcending the particular qualities of political leaders. At the same time, both exhibit considerable pessimism regarding the possibilities for very much change in the future, either for the better or for the worse.

Is such pessimism about American government justified? The framers of the Constitution did not, to be sure, think they had formed a perfect government, nor were they preoccupied with the task of creating an efficient, decisive instrument of power and authority. Quite the contrary. They feared despotism almost as much as they despaired over a weak, ineffectual confederation of separate states. In 1787, they wanted more central authority, surely, but not the consolidated power exercised by the English Parliament. Thus, as Kurland notes, they provided three specific tethers in the new Constitution: limited government, including a Bill of Rights; federalism, preserving considerable authority to the states; and, finally, a separation of powers in the national government among Congress, the President, and the courts. Distrustful of power generally, they did their best to parcel it out and to frustrate its accumulation and abuse at any one point, either in the states, the national government, the Congress, the Presidency, or the judiciary.

This unit of our course raises a fundamental question: has this system, designed by the Founding Fathers, broken down, and if so, why? Is it antiquated and unable to respond to the demands of our time? Or, rather, have many individuals called upon to operate the system failed to use it wisely and creatively?

Doris Kearns' articles and many of the selections in the final unit of the Reader suggest that we do not lack sufficient analysis or criticism concerning what has gone wrong with various parts of the political system; rather, we lack a coherent theory of how it might have been different and what can now be done to rectify the situation, whether the focus be the Congress, the Presidency, or the party system.

Both in the past and in the present, we have consistently oscillated between hope and despair when dealing with the political dimensions of our collective existence. The cure for old-fashioned corruption and graft, we once believed, lay in electing "better" leaders to public office; the remedy for waste and inefficiency could be found in "reorganizing" various institutions of government. But the "better" leaders often proved to

be grave disappointments; despite myriad "reorganizations" at the Federal, state, and local level, waste and inefficiency seemed to persist if not increase. Optimism became cynicism. A striking case in point is the House of Representatives, discussed by Kearns and Kurland.

Kurland's biting criticism of Congress seems at first glance somewhat excessive in view of recent events, above all the Watergate scandals, impeachment proceedings, and Nixon's resignation. How can one seriously speak of Congress' "impotence" in the face of such developments? Didn't the system, designed by the Founding Fathers, work rather well during that unprecedented crisis? Didn't it, in fact, function as they intended? On the other hand, the spectacular reaffirmation of Congress' role during Watergate may have raised excessive hopes about long-term changes in the structure of national government and may have temporarily concealed the weaknesses discussed by Kurland and Kearns.

The year 1974 may have constituted the high point of Congress' long history. During the course of its somber impeachment proceedings, the House not only stood up to the Presidency, it also displayed the finest aspects of the legislative process: thoroughness, diligence, and fairness. The performance of the Judiciary Committee brought credit to the entire body; Congress basked in the warm glow of public approval and esteem. With the overwhelming Democratic victories during the November elections, moreover, the Congress seemed ready to assert new influence over the making of American policy.

By the summer of 1975, however, that enthusiasm vanished. Consulting only a handful of congressional "leaders" in private, President Ford deployed military force against Cambodia. Hardly a voice of congressional protest could be heard. In addition, the efforts of the House to pass various pieces of domestic legislation, ranging from strip mining to oil conservation, floundered amidst partisan rivalry, the pressure of lobbyists, and the usual array of procedural wrangles. It was the same old Congress after all, described by Kearns as showing "the instinct for survival," the "avoidance of controversial issues," an "unwillingness to take the initiative," and the "avoidance of responsibility." The explanations for Congress' failure are not difficult to grasp, but they may be incapable of ready solution.

The decline of "legislative government" and the rise of executive-administrative or "presidential government," analyzed by Kearns, Kurland, Schlesinger, and others, is not, as Richard Goodwin points out, a process unique to the United States in the last one hundred years. It has been a wide-spread development in all nations forced to cope with those combined problems that historians, economists, and sociologists equate with "modernization" and the emergence of "mass societies": growing populations, rising industrial output, the shift from rural to urban communities, the vastness of most institutional life.

Congress and the Legislative Power

Even without the steady enlargement of presidential power that took place, as Schlesinger writes, because of our "imperial" role in foreign affairs, it seems doubtful that Congress could have resisted the trend toward executive government in the management of most domestic problems. The enactment of general laws by Congress and the delegation of the day-to-day application of those laws to administrative agencies has been one of the inevitable consequences of the growing responsibilities placed upon government at all levels in our society. Huge, impersonal bureaucracies have arisen from local city halls to Washington, and, through their rule-making authority, they determine in large measure the scope of particular regulations as well as the distribution of economic penalties and rewards. The actual and potential abuses of this system are too well known to require elaborate documentation, but what is the alternative?

Could the Congress, for example, regularly allocate airline routes and radio franchises, determine "reasonable" freight rates, inspect poultry, adjust bank reserves, and approve FHA loans? Conceivably it could, but not without becoming so mired down in the details of legislative management that it became even more incapable of adopting general laws. Administrative government has been one of the most creative and necessary additions to our basic Constitutional system, without which the separation of legislative, executive, and judicial power could hardly function at all.

On the other hand, Kearns and Kurland are surely justified when they point to Congress' failure to exercise fully its legislative power. Above all, as Kurland argues, Congress has not been vigilant in reviewing the authority delegated to administrative agencies. By and large, the permanent bureaucracy in the executive branch and the independent regulatory commissions operate without careful evaluation, except when gross incompetence or scandal rocks one of the agencies. A flurry of congressional denunciations and inquiries usually follows, but these exercises normally testify to the fact that congressional review of programs has not taken place in the past.

In 1971, for example, Congress passed a landmark Mine Safety Act and created a single-man review board to process complaints from mining companies subject to the new regulations. Through the spring of 1975, not one appeal had been filed with the board. The employee, drawing a salary in excess of $19,000 a year, spent his entire day listening to classical music (normally Beethoven) and lamenting the board's inactivity, which he finally brought to the attention of television reporters! Belatedly, Congress acted to modify the administrative procedures of the Mine Safety Act, having neglected for four years to inquire into its operation and enforcement.

The recent exposé of domestic CIA activities, many of them violations of existing statutes, revealed extensive administrative defiance of laws enacted by the Congress. Examples such as these suggest that more than Watergate will be required to redress the balance between the national legislature and the administrative government managed by the White House. Congress, as Kurland and Kearns argue, must become more attentive to the traditional, day-to-day concerns of a legislature: not only adopting laws, but seeing to it that the laws adopted are in fact carried out as Congress intended.

Solutions to other "weaknesses" in congressional government seem less obvious. Lengthening the two-year terms of House members might divert attention away from a preoccupation with reelection to the pressing business of investigations, law-making, and administrative oversight. Such a change, however, would perhaps eliminate the last vestiges of "popular" control still present in the House of Representatives. Defeating a House incumbent is difficult under the present circumstances; two more years of incumbency will not make it easier for potential challengers. The much-criticized seniority system, for example, would in all probability become more entrenched. However, the new House, elected in 1974, displayed considerable hostility to the seniority system by unseating a few veteran committee chairmen, including the long-entrenched head of the powerful Ways and Means Committee, Wilbur Mills of Arkansas. Whether this rebellion signals a permanent change in the deference shown to the seniority system remains to be seen. Chairman Mills, after all, had not behaved with great decorum in public before his removal, and a gravely wounded leader is always easier to bring down than one untouched by scandal.

In creating two-year House terms the framers of the Constitution sacrificed longer tenure and its accompanying expertise for the benefits of popular renewal and ferment. Increasing the length of House tenure will certainly not make it a more responsive instrument. Whatever its many defects, the seniority system has in fact provided a large measure of vital continuity in the legislative process from Congress to Congress. Anyone who believes that the modern House of Representatives is synonymous with incompetence, inefficiency, and disorder should read the proceedings, debates, committee reports, and newspaper accounts of that unruly body in the nineteenth century when turnover, as Kearns notes, was much greater from session to session and when the difficulties of transacting even routine business (such as the election of a Speaker) consumed months of valuable legislative time.

Present House members, Kearns notes, spend a great deal of their time not only on the business of reelection, but doing "service" for constituents. Many of these activities seem trivial to the outsider, but in fact they represent the "popular will" in the same manner as showing up on the House floor for a roll-call vote. Not only do constituents expect their representatives to behave in this manner, but a great deal of the "service"

rendered comes in the form of helping individuals who have innocently run afoul of some "faceless" administrative agency. For every powerful corporation president in trouble with the Securities and Exchange Commission, there are legions of harassed veterans and bewildered Social Security clients who receive "personal" attention from their congressional representatives.

The Power of the President

Our frequently negative view of Congress, of course, has been influenced by the appearance of great energy, power, and decisiveness in the Presidency. We have almost come to expect less in the way of initiative and purpose from the Congress than from the President, but this was surely not the point of view held by the Founding Fathers. In his *Federalist No. 69*, reprinted in the Reader, Hamilton not only attempted to dispel fears that the President would be a king, but he emphasized that the principal substantive power of the chief executive was to veto legislative actions initiated by Congress. Unlike the British sovereign, who possessed an absolute veto, Hamilton argued, the American President could be overridden by the Congress. He was not a king, nor even the "Grand Seignior . . . the khan of Tartary . . . the Man of the Seven Mountains, or . . . the governor of New York."

Although pretentious titles were initially put forth to invest the office with great dignity, European visitors to America during the first half of the nineteenth century, such as Francis Trollope, were chagrined by the absence of pomp surrounding the office. Andrew Jackson, whose enemies later accused him of acting like a king, largely because they could not override his vetoes in Congress, did not have a special, President-elect steamboat to carry him to the nation's capital. He rode with the people, just as Lincoln did when traveling by train from Illinois to the East after his election. The idea of an "imperial" Presidency would have astounded Hamilton, Jackson, and Lincoln. What, then, is meant by it? How and why did an "imperial" Presidency arise in America?

As Kearns points out, there has always been a hybrid nature to the office, "half democrat, half king," in that the Presidency represents the largest expression of popular approval and at the same time transcends that purely representative function by embodying the nation itself. This has been especially true in the case of foreign policy. And in foreign policy, as in other areas, the problem has been both institutional and personal.

Reversing Congress' waning influence over foreign policy will not be an easy task, even in the wake of the Vietnam debacle, Watergate, and Nixon's resignation. As Kearns and Schlesinger suggest, the greatest inflation of presidential power has taken place in precisely these areas of diplomacy and war-making.

From the days of Washington and Jefferson, both "strong" and "weak" Presidents have displayed considerable reluctance to share responsibility

with the Congress when negotiating and fighting abroad. Jefferson, after all, imposed a provocative embargo on trade with England and purchased Louisiana *before* consulting "the people's representatives." Polk likewise made war on Mexico without prior congressional consent in much the same manner that Nixon invaded Cambodia and Laos. Two reasons—one Constitutional, the other deeply political—account for this consistent pattern.

In the first place, neither the Congress, the President, nor the courts have been eager to define the precise boundaries between the legislature's power "to declare war" and the executive's power as "commander-in-chief" of the armed forces. One would think that the latter could only begin after the former had been exercised, but such has not been the case. Even the recently enacted War Powers Act, a congressional response to Vietnam, permits the President to wage war for days before securing from Congress a formal declaration of support! No doubt the technology of nuclear war requires that some initiative remain with the President, but recent history also suggests that limited military operations, once begun, have a tendency to become major commitments.

Persistent avoidance of these difficult Constitutional issues, above all by the Congress, suggests a troublesome conclusion, too: the representatives of the people (and perhaps the people themselves) have basically agreed with the initiatives taken by the President in foreign affairs. Opposition to the Vietnam War did not become politically "respectable" until 1968 or 1969. Only two Senators objected to the now infamous Gulf of Tonkin Resolution that encouraged Johnson and Nixon to escalate the conflict in Southeast Asia. About as many protested when Theodore Roosevelt "seized" Panama; when Wilson invaded Mexico and Russia; when Truman, ignoring the U.N., sent military advisors to Greece and combat troops into Korea. In short, the failure of Congress to "stand up" to the President in foreign affairs has reflected the enthusiasm of the legislature and the American people for wielding a big stick abroad, getting tough with revolutionaries, and policing the morals of the world generally.

In the end, no amount of law-making or Constitutional analysis will modify such attitudes. It is up to the people, as Adlai Stevenson argues, to demand not only more candor in the making of foreign policy, but to insist upon a different foreign policy altogether.

If presidential authority has grown very large as a consequence of our foreign policy, so, too, has the office come to dominate an ever-widening arena of domestic life in response to the manifold economic and social crises that have plagued the nation since the turn of the century. The rise of administrative government has been fundamentally the rise of presidential government on the model of Theodore Roosevelt, Woodrow Wilson, and Franklin D. Roosevelt, all of whom decisively shaped the content as well as the expectations of the office. They all believed that the President, representing the largest constituency, should exercise national

leadership by proposing a coherent program, initiating legislation, marshaling support for his objectives in the Congress, and appointing capable subordinates to administer the results.

This model of presidential leadership has served our society well. We cannot, as James MacGregor Burns points out, really afford the luxury of a passive, apathetic chief executive in the last third of this century, any more than we could afford one during the grim years of the Great Depression. We emphatically need, Michael Novak writes, "an executive officer who can be held accountable for policies that affect the many diverse publics of the land." Nor, as we assess the Presidency in the aftermath of Watergate, as many of our Reader contributors do, should we forget that all of the positive national achievements made during the past seventy-five years in the areas of social welfare, consumer protection, the rights of labor, and racial justice came about under the auspices of "strong" Presidents and their administrations.

The Decay of the Party System

The sheer size and complexity of American government, a reflection by and large of the scale of our society, have in turn become key factors in the decline of political participation and the decay of the party system. As Kearns, David Broder, and others allege, the revitalization of Congress and a renewal of the Presidency cannot take place unless and until citizens take part once again in the political process.

It is a sobering thought that a greater percentage of eligible voters participated in the national elections of James Madison's time than in the years since 1900. Kearns analyzes many of the social changes that account for this decline: the erosion of party patronage, intense social mobility, and the dispersion of ethnic communities. Responding to these transformations, the parties have become increasingly homogenized in their techniques, platforms, and candidates, especially following the Great Depression, when a broad consensus developed to support social welfare programs and governmental direction of the economy.

Since the turn of the century, the drop in electoral participation has been very severe among the lowest social-economic groups. But even within the amorphous middle class, voter turnout has declined relative to population. Several explanations for this trend have been put forward, but the most convincing seem to be that many voters sense their decisions in the polls will not significantly transform the direction of public policies that are managed by permanent, nonelective bureaucracies at the local, state, and Federal level. The average citizen also believes that his or her influence, relative to that of more organized, better financed special interests, will not weigh as heavily in the shaping of public policies. Neither of these perceptions is wholly inaccurate, especially the latter. As Karl Hess, a former speechwriter for Senator Barry Goldwater, puts it: "A few *do* rule. They rule because they want to rule. It is their character to do it, not a failure of their character."

Limitations upon campaign contributions will solve only part of the problem by restoring a sense of equity to the electoral process. It will not, however, reduce the sometimes arbitrary power exercised by permanent bureaucrats or necessarily inspire the existing parties to develop new programs. There has not been a successful "radical" party in this nation since the Republicans challenged the status quo over slavery in the pre-Civil War years. Subsequent efforts either to redirect the energies and purposes of the major parties or to launch a third-party renaissance have failed rather consistently.

On the other hand, our two major parties have recently made attempts to broaden participation in their internal affairs. The Democrats, for example, during their 1972 National Convention, guaranteed representation to specific population groups: the young, the elderly, racial minorities, and women. In addition, they agreed to hold "mini-conventions" every two years to adopt temporary national platforms and to approve representation plans for delegate selection.

Reforming the Government

The present condition of American politics, discussed at length by Kearns, Goodwin, and Peter Drucker, is not one to inspire great confidence or enthusiasm. Nor do many of the proposals advanced by our authors have the universal assent of political scientists or other "experts," to say nothing of ordinary citizens and politicians.

Kearns urges the restoration of what she calls "a competitive social context," while Goodwin calls for increased "decentralization." Both argue that the centralization of governmental power has gone too far and that authority should be returned to units of government closer to the people. Drucker's plea for "reprivatization" expresses a disenchantment with government itself and a belief in the desirability of more private initiative, especially through business institutions.

Their attacks focus upon the size and impersonality of most of our institutions that reduce the significance and consequences of individual decision making. Drucker singles out government as the principal offender in this respect, but Kearns and Goodwin call attention to the fact that many so-called "private" organizations, including business corporations, universities, and labor unions, exhibit the same patterns of bureaucratic organization, insensitivity to individuals, and incompetence. New York City may be financially troubled, but so, too, are such giant firms as Lockheed Aircraft and the Penn-Central Company. Kearns, in fact, argues that we must give first priority to the dispersal of economic power, including the break-up of large corporate monopolies and drastic reform of the tax structure.

Drucker's criticism of the expansion of governmental regulatory, planning, and management activities seems to ignore the fact that many of these functions were assumed by public agencies only after the private sector proved incapable of handling them with some degree of efficiency

and justice. The stock exchanges are subject to strict regulation today because investment bankers, stockbrokers, and traders could not regulate themselves. "Reprivatization" sounds good in theory, but how would it work in the case of meat inspection, prescription drugs, and efforts to eliminate industrial pollution? The Food and Drug Administration and the Environmental Protection Agency may have their problems, but does the solution reside in their abolition and a restoration of private control and initiative?

On the other hand, do Kearns and Goodwin place exaggerated confidence in "a competitve social context" and "decentralization"? One can deplore the presence of swollen fortunes that distort the social process and noncompetitive monopolies that gouge the consumer, but those familiar with the more wide-open, competitive economy of the late nineteenth century would not recommend it as exemplifying the ideal in human relationships, especially in view of its price wars, depressions, and sweatshop working conditions for many employees.

Calls for "decentralization," moreover, frequently ignore the degree to which the American government, despite seventy-five years of expansion in Washington, remains capable of endless manipulation at the state or local level in response to even neighborhood pressures, fears, and desires. The real question is not "decentralization" in many cases, but what groups or interests within a local unit will exercise power and for what ends.

Imagine, finally, in light of all you have read, that you could amend the Constitution or pass new laws to alter the present structure of American government. What changes would you make and why would you make them? More importantly, would these changes, in your opinion, bring about a higher measure of participation and enthusiasm among your fellow citizens?

STUDY QUESTIONS

1. Describe the divisions of power between the national government and the states and localities in the American federal system. How and why has the original balance altered since 1789? Is it possible or desirable to restore that balance in today's world?

SUGGESTED GUIDELINES

Consider how the Constitution gave only certain powers to the Federal government and reserved the rest to the states and the people. Review again Higham's discussion of why localism and decentralism were important concerns in framing the Constitution. Note too that all government was intended to be kept to a minimum, with as little intrusion as possible on private activities and with voluntary groups performing important functions. Consider Kearns' description of how the role of the national government has expanded at the expense of state and local units and voluntary groups. What factors does she mention? What does Goodwin add? Consult Broder also as to how party politics reflects the decline in the effectiveness and importance of the parties.

Now ask whether modern life has become so complex that the original balance cannot be readily restored. Does Kurland's explanation for the decline of federalism suggest that the original balance is irretrievable? Are the states no longer viable units when interstate regional problems are at issue? Can the Federal government provide leadership and funding without unduly interfering with state and local control? What do Drucker and Goodwin have to say about the effectiveness of Federal programs? Are state and local officials, legislators, and bureaucracies any more efficiently responsive to citizen concerns than their national counterparts? Do you share Parrish's doubts, expressed in his Study Guide essay, regarding the various reform strategies Kearns, Drucker, and Goodwin advocate to revitalize federalism? Finally, do you believe a restoration of decentralization and voluntarism, if it is possible, would benefit the average citizen?

2. How and why have American attitudes toward the Presidency changed over time?

SUGGESTED GUIDELINES

First consult Hamilton and Kearns' second article regarding the historical background to the office. Then observe how Kearns ties the fact that we both revere and deride our Presidents in the dual role we expect them to fill—half democrat, half king. How does Novak's view of that dual role differ from Kearns'? How can we expect the President to be the "representative of all the people," as Burns maintains, when we often elect congressional majorities of the opposition political party? Have our traditional

expectations become unrealistic as party politics developed in different ways? Do Trollope's observations of attitudes toward President Jackson and Adams' caustic fictional account of late nineteenth-century presidential politics only reflect their times or are they still apt today?

Consider the reasons given in several of the readings for the growth in the power of the Presidency in this century relative to the other branches of the Federal government. How has that growth affected public attitudes toward the office and its holder? Note too the effects of television on election campaigning and the expansion of presidential staff that Kearns describes. How have these developments reshaped our expectations and our Presidents' own views of themselves? What do the several assassinations of American Presidents and the public response to them reveal?

Observe the factors Schlesinger sees as producing the "imperial Presidency" under Richard Nixon. How did public attitudes contribute to that development? Was Nixon's demand for respect for the office as such realistic? What was the effect of Watergate and Nixon's departure on majority attitudes? Does a lack of confidence in the office itself remain? Finally, consider whether your own view of the Presidency has changed with time, and if so, why it has.

3. Which of the various proposals discussed in this section for reforming the Presidency and restoring the balance of power between the Executive and Congress do you believe show the most promise of success?

SUGGESTED GUIDELINES

Observe first what the division of powers among the branches of the Federal government was intended to achieve and why we are now concerned about the imbalance that has developed. Note Kearns' and Kurland's descriptions of the two branches' constitutional powers and the "checks" each has on the other. What powers does Kurland believe the Congress has failed to exercise? What factors explain "congressional abdication"? Kearns points particularly to Congress' concern with reelection as contributing to the rise of presidential power. Consider here Parrish's discussion in this Study Guide of the probable effects of changing the two-year House term as a solution to that problem. Would Kurland's suggestions as to how Congress could reassert its prerogatives be sufficient to restore the balance? Is the public willing to exercise its own responsibilities here?

Consider the proposals Schlesinger outlines: the plural executive, the Mansfield-Aiken amendment, the British parliamentary system approach, and Ervin's attempts to curb executive privilege, presidential impoundment, and abuse of the pocket veto. Do you agree with Schlesinger's assessment of these proposals? Burns and others warn that we must not overreact to recent developments and weaken the Presidency too much. How strong must the modern Presidency be? Can we curb the President's

powers in foreign affairs and war-making without crippling his capacity to provide necessary leadership in the domestic sector? Burns recommends assuring the President access to innovative ideas and a "vigorous, coherent, creative opposition." How does he expect this to come about? If, as Vermont Royster and Kearns note, the growth of White House staff functions at the expense of the Cabinet has contributed to presidential isolation from the people, can this be readily corrected? How would Broder's and others' proposals for reform of party politics correct the relationship between Congress, the President, and the people? Has recent congressional performance put any of these proposals in a new light? Finally, which of the proposals you have considered would you recommend?

4. Is the decline of the major political parties a dangerous development for American democracy?

SUGGESTED GUIDELINES

Note that the two-party system was not envisioned by the Constitution's framers, but developed gradually out of many separate factions as the new governmental system went into operation. Our system settled early into a confrontation between two major parties in contrast to the multi-party systems that developed in many other representative democracies. Although new major parties have replaced others from time to time, and the coalitions of interests they represent have shifted, minor parties continue to play only a marginal role in American politics. Your task here, then, is to consider both the two-party system and the role of political parties as a whole in the democratic process.

First consider the evidence Kearns and Broder find of party decay: voter apathy, refusal to identify with any party, ticket-splitting, third parties, and ad-hoc political coalitions. How do Kearns and Broder explain recent citizen apathy? Is the "sheer size and complexity of American government" a major factor? How have traditional party functions at the local level been affected by the civil service merit system and the growth of government bureaucracies? How has television affected the party presidential nomination system and contributed to "confrontation politics"? Do you share Broder's view that the best hope for revitalization of the party system lies in reform at the state level? How real is the danger that party impotence could lead to a dictatorship by a demogogue, as Broder warns? If we are moving toward the fractionalized party system typical of many democratic countries, is that necessarily bad?

Consider the reforms Broder proposes. Do you think the public can become sufficiently recommitted to political participation to make them work? Are they even necessary? Finally, consider your own attitudes toward party politics. Do you think your personal involvement makes, or would make, a vital difference in preserving American democracy?

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Doris H. Kearns

Article 14: The Congress

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Article 15: The Presidency

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Article 16: Political Parties

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Article 17: Reform

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Green, Mark, and Ralph Nader. *Who Runs Congress*. New York: Bantam Books, 1972.* This book attempts to look beneath the formal institutions in the Congress to trace influence of money and organized group power on Congressmen, arguing that before any reform of the Congress is possible, these influences must be reduced.

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Time Chart

*denotes an event discussed in the newspaper articles or readings

40,000-25,000 B.C.	*Asian man migrates across Bering Strait from Asia to North America.
2000 B.C.-A.D. 900	Growth of Mayan Civilization on the Yucatan peninsula, Mexico.
982-986	Norse explorations and settlements in Greenland.
1100-1300	*Indian pueblo culture in Arizona, New Mexico, and Colorado reaches its zenith.
1492-93	Columbus' fleet reaches San Salvador, Cuba, and Hispaniola (Santo Domingo).
1499	Amerigo Vespucci explores South American coast near the Amazon River.
1507	Martin Waldseemuller, a German geographer, suggests that the New World be called America.
1519-21	Hernando Cortes conquers Indians in Tabasco, Mexico and completes conquest of Mexico.
1523	Franciscans found first missions in New World.
1565	Spanish found St. Augustine, Florida.
1570	*League of the Iroquois, a confederation of Indian tribes, created. The Indian population of North America c. 1500 had reached approximately one million.
1577-80	Francis Drake reaches San Francisco Bay.

1584	Sir Walter Raleigh sends colonial expedition to North Carolina. From this effort came a settlement of 100 at Roanoke Island.
1604-06	Samuel de Champlain explores coast of North America as far south as Cape Cod.
1607	*Jamestown founded.
1612	John Rolfe begins tobacco cultivation.
1619	*First Africans brought to Virginia.
1620	*Pilgrims reach Plymouth, Massachusetts.
1624	Dutch settle New Nederland.
1629	Puritans settle in Massachusetts Bay Colony.
1643	Massachusetts, Plymouth, Connecticut, and New Haven form the United Colonies of New England to resist Dutch and Indians.
1708	German immigration to America begins.
1728	Scotch-Irish immigration to America begins.
1754-63	French and Indian War
1764	Parliament adopts Sugar Act to raise revenue in colonies; provides for use of general search warrants.
1765	Stamp Act imposes tax on newspapers, legal documents, and other papers in colonies.

1770	Boston Massacre
1774	First Continental Congress meets.
1775	Battles of Lexington and Concord
1776	*Declaration of Independence
1781	Articles of Confederation ratified; United States of America created.
1783	Peace of Paris
1785	*Continental Congress adopts Northwest Ordinance dividing land in the northwest into townships six miles square.
1787	Constitutional Convention meets in Philadelphia; Constitution submitted to states for ratification.
1788	*Publication of *The Federalist*, written by Hamilton, Madison, and Jay. Constitution goes into effect after New Hampshire ratified on June 21.
1789	Washington elected President. On March 4, first Congress meets in New York City but fails to transact business because it lacks a quorum. Congress adopts Federal Judiciary Act on September 24, providing for a Supreme Court of six members, headed by a chief justice, John Jay. *Bill of Rights submitted to the states for adoption. (Ratified in 1791.)
1798	*Congress passes Alien and Sedition Acts.
1801	Jefferson inaugurated.

1803	Supreme Court, for first time, declares an act of Congress unconstitutional in *Marbury* v. *Madison*. Louisiana Purchase doubles size of United States.
1808	Slave trade ended.
1812	Congress declares war on England.
1814	Francis Scott Key writes *The Star Spangled Banner*.
1825	Opening of the Erie Canal stimulates westward movement.
1828	Andrew Jackson elected President.
1830	*Indian Removal Act calls for moving Indians westward across the Mississippi River Joseph Smith issues *The Book of Mormon*.
1831	Cyrus McCormick introduced the first mechanical reaper.
1834	Pennsylvania creates the first free school act outside of New England.
1836	Bureau of Indian Affairs established by Congress.
1846	United States declares war on Mexico. Oregon Territory acquired.
1848	Mexican War ends. Mexico cedes to U.S. area of modern California, Nevada, Utah, Arizona, New Mexico, part of Colorado.
1849	*Gold Rush to California

1857	*In the *Dred Scott* case, the Supreme Court declares that blacks cannot be citizens and that Congress cannot forbid slavery in the territories.
1861	Lincoln inaugurated. On April 12, South Carolina troops attack Fort Sumter.
1862	*Congress passes the Homestead Act, offering any citizen who was the head of a family 160 acres after five years of continuous residence and payment of a small registration fee. *Emancipation Proclamation
1865	Lee surrenders at Appomattox, ending Civil War. 13th Amendment abolishes slavery.
1866	*Congress sends the 14th Amendment to the states. (Ratified 1868.)
1869	First transcontinental railroad
1870	*15th Amendment forbids denial of vote on grounds of race or previous servitude.
1876	*U.S. Centennial Hayes elected President after disputed election with Tilden.
1879	*Maj. John Wesley Powell's *Report on the Lands of the Arid Regions of the United States.*
1882	*Congress passes Chinese Exclusion Act, forbidding Chinese immigration for 10 years.
1883	*Pendleton Civil Service Act introduces merit system in government employment.
1886	*Statue of Liberty unveiled.

1887	•Dawes Act allots 160 acres of reservation land to each Indian family head.
1894	The Immigration Restriction League is organized in Massachusetts and begins to campaign to restrict immigration through literacy tests.
1896	•Supreme Court adopts "separate but equal" doctrine in case of *Plessy* v. *Ferguson*.
1897	Boston opens the first subway in the United States.
1898	Spanish-American War over Cuba In *Williams* v. *Mississippi*, Supreme Court permits disfranchisement of blacks.
1901	Theodore Roosevelt inaugurated President following assassination of McKinley.
1906	Congress adopts Pure Food and Drug Act and Meat Inspection Act.
1908	Roosevelt calls the first White House Conference on Conservation. First "Model T" Ford
1912	Woodrow Wilson elected President.
1917	United States enters World War I. •In the case of *Schenck* v. *United States*, decided June 15, Justice Holmes sets down the "clear and present danger" test for First Amendment decisions. Jeanette Rankin becomes first Congresswoman.
1919	•Congress passes the 19th Amendment calling for women's suffrage. (Ratified 1920.)

1924	*The Immigration Quota Act limits annual immigration to 2 per cent of the number of each nationality resident in the United States by the census of 1890.
1928	*In *Olmstead* v. *United States*, the Supreme Court rules that wiretapping is not unconstitutional.
1929	Stock market crash
1932	Franklin Roosevelt elected President.
1933	*Tennessee Valley Authority created to construct dams and generate electric power. Beginning of New Deal legislation.
1934	*Indian Reorganization Act encourages tribal self-government.
1940	Roosevelt elected to third term as President.
1941	United States enters World War II following Japanese attack on Pearl Harbor.
1942	*Roosevelt issues executive order authorizing military to exclude persons from restricted areas. As a result, 110,000 Japanese and Japanese-Americans are moved to relocation camps.
1944	Roosevelt elected to fourth term. Congress passes "G.I. Bill of Rights" providing extensive educational benefits to war veterans.
1945	United States drops two atomic bombs on Japan, ending World War II.
1947	Beginning of Cold War

1948	Harry S. Truman elected President. Truman orders desegregation of military and civil service.
1950	United States enters Korean War.
1951	*Eleven leaders of the American Communist Party convicted under the Smith Act for conspiring to advocate the overthrow of the United States government.
1952	Dwight D. Eisenhower elected President.
1953	*Earl Warren named Chief Justice of the United States. *Congress terminates federal services to Indians, places them under state supervision.
1954	*Supreme Court declares racially segregated public schools unconstitutional in *Brown* v. *Topeka Board of Education*.
1955	Led by Rev. Martin Luther King, Jr., blacks begin boycott against bus segregation in Montgomery, Alabama.
1957	Sputnik I launched by Soviet Union.
1959	Alaska and Hawaii admitted to the Union.
1960	John F. Kennedy elected President.
1962	Kennedy imposes naval blockade on Cuba in order to force removal of Soviet missiles. *In *Baker* v. *Carr*, Supreme Court establishes principle of one man, one vote. Cesar Chavez begins to organize Mexican-American farm workers.
1963	President Kennedy assassinated. Martin Luther King, Jr., leads march on Washington. *In *Gideon* v. *Wainwright*, Supreme Court rules poor defendants have right to counsel.

1964	Congress passes Civil Rights Act barring racial segregation in public accommodations. Lyndon B. Johnson elected President. Congress adopts Gulf of Tonkin Resolution authorizing President to take increased military action in Vietnam.
1966	American combat troops in Vietnam reach 400,000. Stokely Carmichael launches Black Power slogan.
1967	Johnson names Thurgood Marshall as the first black to serve on the Supreme Court.
1968	Richard Nixon elected President. Martin Luther King, Jr., assassinated in Memphis.
1969	Neil Armstrong becomes first American to walk on the moon.
1971	•*New York Times* and *Washington Post* begin publishing secret Defense Department report on Vietnam War, leading to the Pentagon Papers case before the Supreme Court.
1972	Richard Nixon reelected President. •Congress votes in favor of the Equal Rights Amendment.
1973	Watergate hearings begin before Senator Ervin's subcommittee. Cease-fire in Vietnam; withdrawal of American forces.
1974	Richard Nixon resigns as President; Gerald Ford becomes first person to occupy White House through appointment.
1975	•America celebrates the beginning of its 200th anniversary on July 4.

NOTES ON CONTRIBUTORS

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